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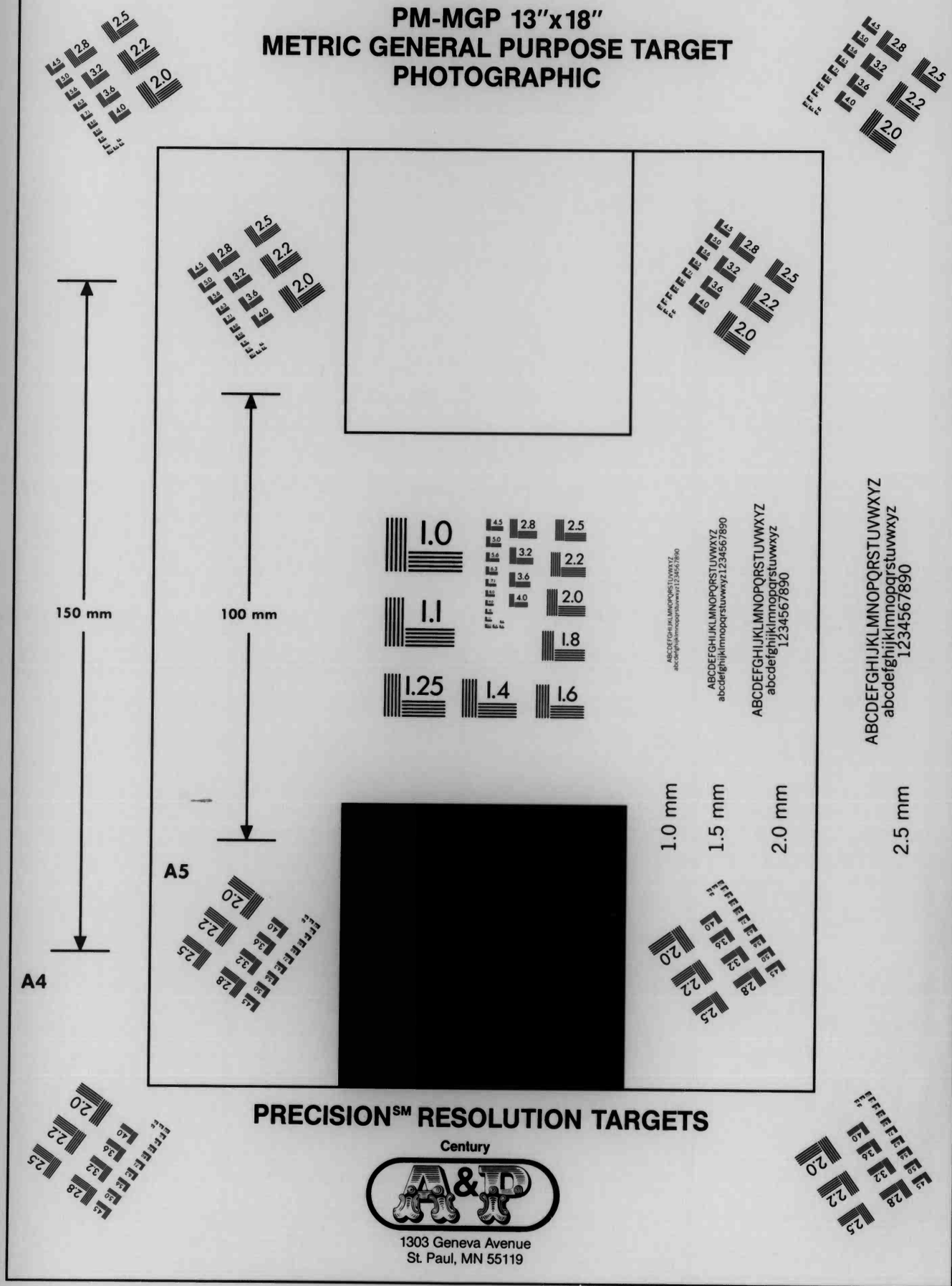

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HEARINGS. RAILWAY PAY OF NONOPERATING EMPLOYEES.

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HEARINGS

BEFORE THE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

SEVENTY-EIGHTH CONGRESS

FIRST SESSION

ON

S. J. Res. 91 and H. J. Res. 187

JOINT RESOLUTIONS TO AID IN EFFECTUATING THE PURPOSES OF THE RAILWAY LABOR ACT

DECEMBER 13, 14, 16, 17, 1943

Printed for the use of the
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CONTENTS

	Page
Statements of—	
Jewell, B. M., chairman, Employees' National Conference Committee, representing the 15 cooperating railway labor organizations of nonoperating employees, Chicago, Ill	3, 19
Stearns, Hon. Foster, Member of Congress from State of New Hampshire	19
Fort, J. Carter, representing the Association of American Railroads	41
Fletcher, R. V., vice president, the Association of American Railroads, Washington, D. C	57
Aronson, Jacob, vice president, New York Central System, and chief counsel for Eastern, Western, and Southeastern Carriers' Conference Committee	58
Vinson, Hon. Fred M., Director, Office of Economic Stabilization, and Chairman, Economic Stabilization Board	77
Richberg, Donald R., attorney, representing the 15 cooperating railroad labor organizations of nonoperating employees, Washington, D. C	126
Harrison, George M., grand president, Brotherhood of Railway Clerks	157
Communications, documents, statistical tables submitted:	
List of cooperating railway labor organizations, of nonoperating railway employees, and officers of these organizations	3
Table showing comparison of average hourly earnings for the years 1936–43 of employees of railway and of employees of outside manufacturing industry	13
Tables showing comparative percentages of earnings of nonoperating railway employees and certain other groups of American workers from 1936 to 1941	13
Letter dated July 3, 1943, from I. L. Sharfman, Chairman of Railroad Emergency Board, in *Non-operating case*, addressed to Hon. Fred M. Vinson	17
Text of agreement signed August 7, 1943, between the participating carriers and the 15 cooperating railroad labor organizations in the nonoperating case, with appendixes	21
Excerpt from statement of Jacob Aronson, chief counsel of Carriers' Conference Committee, on October 28, 1943, before the Special Emergency Board on the nonoperating case	59
Supplementary statement by Hon. Fred M. Vinson, Director of Economic Stabilization, being Comments on the Relation of the *Coal Miners Wage Case* to the *Non-Op Case*	121
Text of Executive orders referred to during these hearings	167
Committee Press Release on December 20, 1943	176
Text of H. J. Res 187	2
Text of S. J. Res. 91	1

RAILWAY PAY OF NONOPERATING EMPLOYEES

MONDAY, DECEMBER 13, 1943

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D. C.

The committee met at 10 a. m. in the committee room, New House Office Building, Hon. Clarence F. Lea (chairman) presiding.

The CHAIRMAN. The committee will come to order. We have met for hearings this morning on Senate Joint Resolution 91 and House Joint Resolution 187.

(The resolutions are as follows:)

[S. J. Res. 91, 78th Cong., 1st sess.]

JOINT RESOLUTION

To aid in effectuating the purposes of the Railway Labor Act

Whereas the Railway Labor Act has contributed in a marked degree to the establishment of peaceful and orderly industrial relations in the railroad industry; and

Whereas on September 25, 1942, seventy-three classes of railway employees, involving one million ninety-seven thousand one hundred eighty workers, requested increases in their hourly wage rates and thereafter complied with all of the provisions of the Railway Labor Act by negotiation on the respective properties, mediation by the National Mediation Board, and the appointment of an Amergency Board to investigate and report to the President of the United States; and

Whereas after forty-four days of public hearing and a careful study of the six thousand three hundred thirty-eight pages of testimony and two-hundred thirty-four exhibits introduced in the course of the hearings, said Emergency Board recommended to the President that the carriers increase the basic wage rates of all said employees in the amount of 8 cents per hour, effective February 1, 1943; and

Whereas the Director of the Office of Defense Transportation addressed a letter on September 1, 1943, to the chief executives of all railroads and railroad labor organizations in which he stated that "The railroads of the country are headed for a manpower crisis unless extraordinary measures are taken and taken quickly to forestall it"; and

Whereas one cause of this manpower crisis is the inability of the railroads to obtain and to retain in employment the necessary skilled and semiskilled workers among the nonoperating employees because of inadequate wages; and

Whereas on the 7th day of August 1943 the duly designated representatives of the railroads employing approximately 95 per centum of all railroad employees and the representatives of the employees involved entered into an agreement to settle and adjust their dispute; and

Whereas the terms of said agreement have not been carried out because of the question being raised as to whether said agreement is in contravention of any existing requirements of law: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the agreement made in Washington, District of Columbia, on August 7, 1943, by and between the carriers and railway labor organization parties thereto, is in accord with the requirements of the Railway Labor Act and all other requirements of law, and shall be held so to be, anything in the law or laws of the United States to the contrary notwithstanding.

Passed the Senate December 9 (legislative day, December 7), 1943.

Attest:

EDWIN A. HALSEY, *Secretary*.

[H. J. Res. 187, 78th Cong., 1st sess.]

JOINT RESOLUTION

To aid in effectuating the purposes of the Railway Labor Act

Whereas the Railway Labor Act has contributed in a marked degree to the establishment of peaceful and orderly industrial relations in the railroad industry; and

Whereas on September 25, 1942, seventy-three classes of railway employees, involving one million ninety-seven thousand one hundred and eighty workers, requested increases in their hourly wage rates and thereafter complied with all of the provisions of the Railway Labor Act by negotiation on the respective properties, mediation by the National Mediation Board, and the appointment of an Emergency Board to investigate and report to the President of the United States; and

Whereas after forty-four days of public hearing and a careful study of the six thousand three hundred and thirty-eight pages of testimony and two hundred and thirty-four exhibits introduced in the course of the hearings, said Emergency Board recommended to the President that the carriers increase the basic wage rates of all said employees in the amount of 8 cents per hour, effective February 1, 1943; and

Whereas in its report said Emergency Board found in part as follows:

(1) That of the one million ninety-seven thousand nine hundred and eighty railroad employees involved about half, five hundred and forty-four thousand one hundred and six, or 49.6 per centum, received less than 70 cents per hour; four hundred and eleven thousand six hundred and eighty-four, or 37.5 per centum received less than 60 cents per hour; two hundred and fifty-five thousand eight hundred and thirteen, or 23.3 per centum, received less than 55 cents per hour; one hundred and sixty thousand four hundred and thirty-eight, or 16.6 per centum, received less than 50 cents per hour; one hundred and four thousand two hundred and sixty-nine received 46 cents per hour, and sixteen thousand eight hundred and seventy-one received less than 46 cents per hour;

(2) That the wage increases recommended conformed with the standards prescribed in Executive Order Numbered 9250, the general stabilization program made effective thereunder, and with the directives on policy issued by the Economic Stabilization Director thereunder; and "are designed to correct gross inequities and to aid in the effective prosecution of the war"; and "they are the minimum and noninflationary adjustments necessary for these purposes" and "they do not provide a basis for increases in railroad rates or for resistance to justifiable reductions in such rates" and "they do not provide a basis for increasing production costs in comparable industries or occupations" and "the correction of the gross inequities disclosed by the facts of record is indispensable to the effective prosecution of the war";

(3) That "on July 16, 1942, in the Little Steel case, the National War Labor Board fixed the minimum rate in the steel industry for common labor at 78 cents per hour, which is substantially in excess of the average hourly earnings of the seventy-three classes of railroad employees", which average earnings the Board found to be 73.8 cents an hour;

(4) That "during the years 1941 and 1942 the annual earnings of farm laborers increased by 53 per centum as compared with an increase of 28.5 per centum for maintenance-of-way workers on the railroads. Farm labor rates of pay increased during this period by 79.8 per centum as compared with 20.6 per centum for the maintenance-of-way workers";

(5) That the existence of gross inequities was revealed by many comparative wage trends and particularly by comparative wage trends during the years 1941 and 1942; and that "the seventy-three classes of railroad employees received during this period an increase of 10 cents an hour in basic wage rates. In manufacturing industries, the closest approximation of the change in wage rates is the change in straight-time hourly earnings. The increase for all manufacturing industries in straight-time earnings was 19.4 cents per hour, or 9.4 cents more than the rate change for these railroad employees"; and

Whereas the Director of the Office of Defense Transportation addressed a letter on September 1, 1943, to the chief executives of all railroads and railroad labor organizations in which he stated that "The railroads of the country are headed for a manpower crisis unless extraordinary measures are taken and taken quicky to forestall it"; and

Whereas one cause of this manpower crisis is the inability of the railroads to obtain and to retain in employment the necessary skilled and semiskilled workers among the nonoperating employees because of inadequate wages; and

Whereas the records of the Railroad Retirement Board show that during the twelve-month period ending June 30, 1943, the railroads hired one million forty-five thousand two hundred and seventeen new employees, whereas Interstate Commerce Commission records indicate a net gain in total employment during this period of only approximately one hundred thousand employees, which records demonstrate an inevitable and seriously harmful decline in the morale and efficiency of the large number of workers thus temporarily employed; and

Whereas on the 7th day of August 1943, the duly designated representatives of the class I railroads and the employees involved entered into an agreement to apply the recommendations of the Emergency Board by increasing the hourly rates of all said employees in the amount of 8 cents effective February 1943, said agreement being expressly made "subject to any existing requirements of law"; and

Whereas the terms of said agreement have not been carried out because of the question being raised as to whether said agreement is in contravention of any existing requirements of law: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the agreement made in Washington, District of Columbia, on August 7, 1943, by and between the carriers and railway labor organization parties thereto, is in accord with the requirements of the Railway Labor Act and all other requirements of law, and shall be held so to be, anything in the law or laws of the United States to the contrary notwithstanding.

I believe the first witness is Mr. Jewell. Will you proceed, Mr. Jewell.

STATEMENT OF B. M. JEWELL, CHAIRMAN, EMPLOYEES' NATIONAL CONFERENCE COMMITTEE, REPRESENTING THE 15 COOPERATING RAILWAY LABOR ORGANIZATIONS, CHICAGO, ILL.

Mr. JEWELL. Mr. Chairman and gentlemen of the committee, my name is B. M. Jewell. I appear before you as chairman of the Employees' National Conference Committee on behalf of the 15 cooperating railway-labor organizations. My Washington address is Hamilton Hotel. My headquarters address is 936 North Michigan Avenue, Chicago, Ill.

With your permission I will hand to the reporter a list of the names of the organizations and their officers, which may be inserted in the record.

The CHAIRMAN. Very well.

(The list referred to is as follows:)

International Association of Machinists, represented by H. W. Brown, its president.

International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America, represented by J. A. Franklin, its international president.

International Brotherhood of Blacksmiths, Drop Forgers and Helpers, represented by Roy Hern, its general president.

Sheet Metal Workers' International Association, represented by L. M. Wicklein, its general vice president.

International Brotherhood of Electrical Workers, represented by J. J. Duffy, its international vice president.

Brotherhood Railway Carmen of America, represented by Felix H. Knight, its general president.

International Brotherhood of Firemen and Oilers, Roundhouse and Railway Shop Laborers, represented by George Wright, its vice president.

Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, represented by George M. Harrison, its grand president.

Brotherhood of Maintenance of Way Employees, represented by E. E. Milliman, its president.

The Order of Railroad Telegraphers, represented by V. O. Gardner, its president.

Brotherhood of Railroad Signalmen of America, represented by A. E. Lyon, its grand president.

National Organization of Masters, Mates, and Pilots of America, represented by James J. Delaney, its president.

National Marine Engineers' Beneficial Association, represented by Samuel J. Hogan, its president.

International Longshoremen's Association, represented by Joseph P. Ryan, its president.

Hotel and Restaurant Employees' International Alliance and Bartenders' International League of America, represented by Edward Flore, its general president.

Mr. JEWELL. These 15 labor organizations represent those railroad employees commonly referred to as the nonoperating employees, as distinguished from the operating employees, who operate the trains; perform the train, engine, and the yard service. The operating employees are generally known as engineers, firemen, trainmen, conductors, and yard-service employees, and the others—the nonoperating—the number is substantially 1,100,000 employees.

Mr. Chairman, with the permission of the clerk of the committee, I have distributed, placed before each member of the committee, certain documents: For instance, the report of the Senate committee, the hearings; the Senate committee's report and a pamphlet we have prepared which is entitled "Railway Wages and the War" which gives facts and figures and a statement in respect to this matter; and a report which our 15 chief executives made to all of their railway employees involved under date of October 25, 1943. The report of the 15 chiefs particularly carries a running story statement of all of the developments in connection with this matter. And, in addition, there is filed a report of the Emergency Board to the President, dated May 24, 1943.

I only have a limited number of copies of Supplemental Report of May 29, 1943. I have not distributed that. I do not have enough copies to distribute it.

What is the pleasure of the committee? Shall I undertake to make a statement and then submit to questions, or how would you like to proceed?

The CHAIRMAN. If you will submit a statement first and then submit yourself to questions by members of the committee.

Mr. JEWELL. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, we are very greatly pleased to have this opportunity to appear before this committee, but before we proceed, we must confess our regrets that it is necessary for us to be here; but it is. We have exhausted ourselves in the last 14 months' efforts, undertaking to settle a matter that has

arisen under the Railway Labor Act, which this committee is very familiar with, and which up to this moment had worked very, very satisfactorily; and we have not been able to settle it, and we have been compelled to come here, gentlemen of the committee, to ask you to help us solve a problem that is getting very serious.

I think first we would like to suggest for the attention of the committee, that our railway industry has been dealt with, legislatively, by the Congress, by this committee, separate from other industries, without mentioning all of the laws affecting the operations of the industry from the point of view of management and its service, such as is handled by the Interstate Commerce Commission, since 1887, our railway labor legislation, since the Newland and Erdman Acts, the Transportation Act of 1920, the Railway Labor Act of 1926, and the two later amendments, so that the industry has been dealt with separately from other industries.

I would like to call attention to the fact that even in the October 2, 1942, Stabilization Act, section 2, was a provision by which the President could suspend certain provisions of the previous Stabilization Act, and then there was a provision to the effect that he may not "under the authority of this Act spend any other law or part thereof."

Section 1 of that October 2, 1942, Stabilization Act contained a provision by which the President of the United States would be notified of an intended increase in rates or fares by the railroads and be given the right to be heard before the Interstate Commerce Commission, and the agencies of Government that had heretofore handled rates, still continued to deal with those problems and they were not taken over by any other agency.

I had prepared, Mr. Chairman, to give a brief digest of the provisions, pertinent provisions, of the Railway Labor Act. I do not intend to offer any affront to this committee by undertaking to discuss, as a layman, the law that you worked so hard on and that you are the authors of.

The CHAIRMAN. Well, I believe it would be useful to the committee if you would review those different acts that affect this problem, enacted by Congress for settlement of such disputes.

Mr. JEWELL. All right, Mr. Chairman. Our Railway Labor Act, Mr. Chairman, among the several provisions, makes it the duty of management and representatives of the employees to make and maintain agreements governing wages and other employer-employee relations; what might be termed "employer-employee relations," such as wages and working conditions, as we express it; rates of pay and working conditions.

The CHAIRMAN. What was the date of that act?

Mr. JEWELL. It was passed in 1926, amended in 1934, and again amended in 1936. It was amended in 1934 to put in the provision with respect to the Adjustment Board, set up machinery to settle disputes growing out of these agreements which we are required to make, and 1936 to include the air employees. It also requires as a duty that we promptly settle disputes that grow out of those, or may grow out of those agreements.

The act requires 30 days' notice by the party desiring to change a provision of any one of these agreements; also requires that the date for conference to discuss that subject matter shall be fixed and settled within 10 days after the notice; the conference to begin within 30 days after the notice.

If the parties fail to agree in the conference, either party or both parties may invoke the services of the National Mediation Board or the Board may proffer its services in any labor controversy in the railroad industry. If the parties jointly invoke the services of the Board or either party invokes the services of the Board or the Board proffers its own services, the law provides that no change in the conditions out of which the dispute arose can be made by either party separately and in the absence of an agreement during mediation and until 10 days after mediation is terminated, and then only in the event that no effort has been made to take the next step.

The act provides that the final action of the Mediation Board shall be to propose arbitration. Arbitration is voluntary. The law specifically provides that it is not a violation of the law to decline to arbitrate, but if the parties do agree or arbitrate, then the type of machinery, type of agreement, procedure, and so forth, are all set up rather elaborately in the law. If the dispute is not settled and an agreement to arbitrate is not secured by the Mediation Board or made by the parties, and there is a dispute which substantially threatens to interrupt interstate commerce, the National Mediation Board reports that fact to the President, and the President may then appoint an Emergency Board. That Board is provided for in section 10 of the Railway Labor Act.

The duties of that Board are to make a full investigation of the dispute; ascertain all of the facts; hear all of the parties; and make a report to the President, or make a recommendation to the President, as to how they think the dispute should be settled by agreement by the parties.

Then, there is provision in the law that there can be no change in the conditions out of which the dispute arose while the Board is holding hearings and then for 30 days after the report is filed with the President, the parties are specifically prohibited, except by agreement, from making any changes in conditions out of which the dispute originally arose. In other words, a 30-day cooling off period.

Now, in that situation, the President having received a report of this Emergency Board, having its recommendation, the President of the United States has the problem involved to protect the interests of the country and to try to bring about an agreement. That has always been the effort made, and in most instances an agreement has resulted directly from that report of the Emergency Board.

We will cite later, in discussing the history of our wage movements, something with respect to that.

So that to put it in a word, Mr. Chairman, the Railway Labor Act requires the making and maintaining of agreements; it affords the opportunity and machinery for the making of agreements between the parties.

There is no provision anywhere in the law in the matter of changing rates of pay, or changing agreements, for anybody to make a decision or to write an agreement for the parties, except that they agree themselves, through arbitration. That is the only provision where any decision is made at all. The remainder of the provisions and the procedure is that the Government furnishes the aids to the parties, so that they may make an agreement.

These railway labor organizations, as this committee knows, supported the original Howell-Barkley bill; the carriers and the railroad labor organizations supported the 1926 Railway Labor Act, as it was

passed; the 1934 amendments was supported by the labor organizations, and so far as these 15 organizations here are concerned, without being boastful, we are right proud of the success of the law. We feel that this committee has every reason to feel that they rendered a valuable service to this country in the passing of that act.

I might call attention further to a statement made by Senator Barkley in the discussion of Senate Resolution 91 last week, on page 10,636 of the Congressional Record where he said in effect that it was the best labor law that had been written in this or any other country.

I think, Mr. Chairman, it might be helpful to give just a short statement of the handling of wages in the railway industry, and with your permission, I will try to do so briefly.

During World War I, beginning December 28, 1917, and ending March 1, 1920, wages in the railway industry were handled by the Railroad Administration. The Director General appointed first the Lane Commission and then later the Board of Railway Working Conditions, which succeeded the Lane Commission, those two agencies, and the Director General, his staff, and himself, devoted considerable time—all during the period of the Federal control—in studying the railway wage structure and other railway labor problems and as we often put it they undertook to bring, and did succeed in bringing, some order out of what was formerly quite a chaotic condition with respect to railway wages, and there is much of the relation in railway rates of pay that now exist that were established during that period, worked out during that period, through these agencies of Government with the aid of railway labor and railway management.

The next period was under the Transportation Act of 1920, March 1, 1920, to May 20, 1926. The first act of the old Railroad Labor Board, created under the Transportation Act of 1920 with respect to wages, was its decision of July 20, 1920, where they increased by substantial amounts the rates of pay that had been created during Federal control, because those rates of pay had not kept pace with the cost of living or with wages in other industries, and the Director General, in the greater part, if not all, of the year 1919, the last full year of Federal control, had urged us not to press for more wage increases until we had more stable conditions.

The next act of the Railroad Labor Board was a reduction in rates of pay for all railroad employees, issued June 1, 1921.

Then, early in 1922, this Board issued other decisions and again they reduced the rates of pay of substantially all these nonoperating railway employees, but they did not reduce the rates of pay of the train, engine, and yard-service employees, sometimes referred to as the operating employees.

Those decisions reducing pay in 1922 were about the last of any great moment that the old Railroad Labor Board issued with respect to wages.

From 1922 to 1932, these 15 organizations negotiated generally for rates of pay with each carrier separately on a system basis. What I mean to say is there were no joint concerted wage movements; no national wage movements among this group. That is not true of the operating employees, but it is true of the nonoperating employees.

By the end of 1929 the nonoperating railway employees had not succeeded in securing the restoration of rates of pay, that is, the reduction of the rates of pay that were taken away from them in 1921 and 1922. In other words, we had not secured a restoration of the rates

of pay that existed in 1920. That is not true of all railway employees, but it is true of this whole group.

The first industry-wide handling of a wage dispute developed in the fall of 1931, excepting, of course, the Federal control period. Effective February 1, 1932, an agreement was made between substantially all of the carriers of the country and all of the standard recognized railway labor organizations, providing for a 10 percent deduction from each employee's pay check. That agreement was to continue for 1 year. It provided that the basic agreed-to rates of pay stated in the agreements would not be changed, but there would simply be this education and at the end of 1 year the basic rates were to be restored or the deductions discontinued; but that agreement was extended by agreement from time to time until April 1, 1935, when the last of the deductions was removed and it was discontinued, and the wage rates that were in effect in 1929, and in 1931, again prevailed; the basic rates provided for in the agreements.

Effective August 1, 1937, with no increase in the intervening period, these nonoperating employees in substantially a Nation-wide handling of their wage problem received a 5-cent per hour increase; the operating employees, in a separate movement secured a 5½-cent-per-hour increase, effective October 1 of that year.

The next general development was in 1938 when the carriers earlier that year moved for a 15 percent reduction in the rates of pay, by serving the proper notices. An Emergency Board finally was appointed after meeting all of the requirements of the law in October 1938. That Board recommended to the President that there be no horizontal reduction in the rates of pay of the railroad employees.

The next development with respect to railroad wages was the national movement of these nonoperating railway employees which began in June 1941, and effective December 1, 1941, these nonoperating employees received an increase of 10 cents per hour.

All of these proceedings, excepting the first agreement for the 10-percent reduction made effective February 1, 1932, were strictly under and in accordance with the Railway Labor Act, after the date, of course, of the passage of that act.

Thus, since 1929, these nonoperating employees have had an increase of 15 cents per hour in their rates of pay.

I think it is proper in passing here to say that the 10-cents-per-hour increase in pay secured in 1941, December 1, 1941, was based, as is customary in our industry, because of the problem in securing facts and statistics and so forth, substantially on the conditions as of the end of the year 1940, and a little examination of the rates of pay which we used in that case, which were used in that case, I think, will show that that substantially is true.

I thought it desirable, Mr. Chairman, to undertake to indicate to this committee that there has developed through all these years of handling of wages in the railway industry, a pretty generally accepted set of principles which we all employ in presenting our case, and preparing our wage case, and discussing them at conferences; presenting them to arbitration boards or emergency boards as required under the law. For instance, we all pretty generally recognize that the scale of wages paid for similar work in other industries is a factor to be considered and proof is generally offered supporting it, as is the problem with relation to wages and the cost of living; and also as to hazards

of the employment; the training and skill required of our railway workers; the degree of the responsibility assumed and required to be assumed by them in the performance of their duties; the character and regularity of railway employment, as compared with other employments; inequities of increases in wages, the result of previous wage settlements.

Of course, either party is also free to bring in and advance materials and other relevant arguments in support of those principles.

But those are the pretty generally accepted code.

Now, Mr. Chairman, with that brief introduction, we will discuss the case now before us; the one which we, the railway labor organizations, have been unable to settle and which we have handled strictly and completely and wholly in accordance with the Railway Labor Act; which we were unable to settle, and which we come here and ask this Congress and this committee in all good faith and in all candor to help us settle.

We served a notice for and in behalf of these 15 cooperating organizations through the representatives on the individual railroads, they served a notice on their carriers, on September 25, 1942, for increase in the rates of pay.

As is required by the law, system conferences were held between these employee committees and managements on each railroad and agreements were not reached in any of those conferences.

In those conferences, the system committees urged, in the event that they could not reach an agreement with their management, that their managements agree to authorize and join with other managements to create a joint committee of managements to represent them in a joint national conference committee.

The organizations' representatives at the conclusion of the conferences referred the dispute, or reported the results of their conferences and referred the disputes to their respective chief executives, empowering them under the laws of the organizations to act as their representatives in national conferences with the 15 chief executives who are cooperating together.

Those two national conference committees met in conference December 15, 16, and 17, 1942, and were unable to reach an agreement.

I think one of the factors that disturbed that conference and contributed to our inability to reach an agreement was the steps that had been taken which you gentlemen all undoubtedly recall, to secure a reduction in the rates and fares of the railway industry through a petition filed, properly so, of course, with the Interstate Commerce Commission.

Seeing that it was impossible to get an agreement in conference, on December 18, 1942, these labor organizations filed an application with the National Mediation Board, for their services. The Board began mediation on January 7, and concluded mediation on January 16, 1943, without securing an agreement to settle the dispute or an agreement to arbitrate.

We then, on January 20, 1943, filed an application with the Chairman of the National Railway Labor Panel, for the appointment of an emergency board, which emergency board when appointed was required to proceed under and in compliance with section 10 of the Railway Labor Act.

You will remember that the Stabilization Act had passed October 2, 1942, the Second Stabilization Act. That required the President to issue a general order carrying out, or seeking to carry out, the purposes of that act. That order was issued on October 3, 1942, and came to be known as Executive Order No. 9250.

In title VI, paragraph 1 of that order, will be found this language—

> nothing in this order shall be construed as affecting * * * the adjustment procedure of the Railway Labor Act.

There are a few words left out in there, as we only wanted to quote the pertinent words here. There are other laws in there not affected by this order.

Therefore, it is clear, that the President intended and it was the intent and desire of the Congress that the Railway Labor Act machinery be used, procedure be used, requirements be complied with and apply to handling wage disputes.

Well, when that order was issued, notwithstanding that clear language, there was considerable misunderstanding among governmental agencies and among others outside of Government as to what it meant. Some contended that railway-labor-wage disputes had to go before the War Labor Board. We thought the language was very clear and contended that the President intended by that order that we should use the Railway Labor Act machinery. It took some time to get that settled, although the President made it clear in a couple of press statements what he wanted; what he had in mind.

Mr. WOLVERTON. Mr. Chairman.

The CHAIRMAN. Mr. Wolverton.

Mr. WOLVERTON. Who contended otherwise?

Mr. JEWELL. Well, I think probably the carriers contended that it was their view we should go to the War Labor Board. I think probably there were some others; but anyhow, on February 4, 1943, the President disposed of that issue by issuing Executive Order 9299, thereby making clear what he intended, and it was required that the machinery of the Railway Labor Act should function in the handling of railway wages.

I shall not read the order, Mr. Chairman, but sections 4, 5, and 6, of that order, I think are particularly pertinent to this proceeding here. They are reproduced in the hearings before the Senate committee on page 14.

Our application was pending for the appointment of this Emergency Board from January 20, 1942, so that on February 20, after the Executive order was issued, the chairman of the National Railway Labor Panel appointed the Emergency Board, composed of Mr. I. L. Sharfman, chairman, Mr. Walter T. Fisher, and Mr. John A. Fitch, all three men eminent in their respective vocations and what is of greater importance we think, men who have had a rather extensive experience in the handling of matters arising under the Railway Labor Act, particularly as referees before our adjustment boards, which, as you know, hold their sessions at Chicago, and members of the Emergency Board and arbitration boards, so that they are men selected by the President of the United States, appointed to this Railway Labor Panel by him, who have the necessary qualifications and great, wide experience in the work they are required to perform.

This Emergency Board began its hearings on March 1; ended their hearings on May 7, 1943. There were 44 hearing days; 6,338 pages

of testimony and 234 exhibits presented by the parties to the proceedings; that is, these 15 railway labor organizations and substantially all of the carriers in the country, those whom upon the notice had been served and who were therefore parties to the dispute.

Near the end of these proceedings, April 8, 1943, the President issued Executive Order 9328, generally known as the hold-the-line order. I think it is desirable to call attention to Section 5 of that Executive order—not read it however—and say that it is printed on page 15 of the record of the hearings before the Senate committee, and to note clearly that there the President conferred upon the Economic Stabilization Director only the power that he, the President, received from the Stabilization Act of October 2, 1942.

The words "by this act" are, or almost those words, appear 3 times in that order. The first time the definition is given by naming the act itself, and giving the date of its passage, October 2, 1942.

So that the President did not confer any wide, undefined powers.

I want to stop here and call attention to the fact that 2 days before this hold-the-line order was issued, and sometime before our Emergency Board had concluded their hearings that is on April 6, 1943, the Interstate Commerce Commission announced its decision that effective May 15, 1943, and for 7½ months thereafter, certain rates, certain decreases in rates would be made effective in freight and passenger rates, totaling, as I understand, approximately 4.7 percent. That was done while the wage proceedings were going on.

After the hearings were closed, before the Emergency Board, but before the Emergency Board made its report to the President on May 12, 1943, the Director of Economic Stabilization issued a directive which was intended, undoubtedly, to loosen somewhat the so-called "hold the line" order; liberalize it. That document is reproduced on page 15 of the Senate committee's hearings.

That directive was issued, as probably we all know, because a general widespread urging on the part of labor organizations and I think on the part of the War Labor Board itself that the "hold the line" order was too rigid and it had to be somewhat liberalized.

So that our Board when it made its report to the President on May 24, and May 29, this President's Emergency Board, which was appointed on February 20, which proceeded wholly and directly in accordance with the Railway Labor Act, and section 10 thereof, it had before it as to the definition of the stabilization policy, such provisions as to stabilization as contained in the act of October 2, 1942, the Executive Orders 9299, 9328, and the directive of May 12, 1943.

This Board did report to the President on May 24, with a supplemental report on May 29.

The original report, that is, the first report, dated May 24, is before the members of the committee, Mr. Chairman, and has been reproduced in the Senate committee's hearings on pages 31 to 39, inclusive.

The employees represented by these 15 organizations had, on September 25, 1942, requested an increase in rates of pay of 20 cents an hour, with a minimum of 70 cents an hour. They had also requested the union shop agreement.

Let me stop here and say that the Emergency Board disposed of our union shop request by saying it was in violation of the Railway Labor Act and recommending we abandon further proceedings for it and later I will point out we have done so.

I want to call attention to the fact that as of December 1940, the average hourly earnings of the 73 classes of nonoperating railway employees, the 1,100,000 such employees got 63.4 cents per hour; the average straight time hourly earnings of all of these 1,100,000 employees, in December 1940, was 63.4 cents per hour.

As of October 1942, during which period they had received the increase of 10 cents per hour, that rate was 73.8 cents straight time average hourly earnings, and that is the rate that the Emergency Board found was the straight time average hourly earnings in their report of May 24 to the President.

The Emergency Board in its report of May 24, 1943, paragraph 41, reproduced on page 36 in the Senate hearings, found:

> The full 15-percent increase has been made. * * * The Little Steel formula constitutes an integral part of the stabilization program as it now prevails, and the Board is recommending no departure from it.

In the same paragraph, the Board discusses a percentage increase as it might be applied to each of the classes, or to each of the crafts separately and then says:

> Not only would any differentiation between the various crafts or classes in this regard run counter to the requests or the desires of the labor organizations and the employees whom they represent, but it would do violence to the Little Steel formula.

Then, in paragraph 20 of their report of May 24, the Board states that the recommendations which it has made for wage increases based on a careful analysis—I will not read it all—a careful analysis of the records; all of the record in the hearings. Increases recommended are designed to correct gross inequities and aid in effective prosecution of the war. The report certifies that they are in accordance with the stabilization policy of the Government; that they are the minimum and noninflationary adjustments necessary for these purposes, that is, correct gross inequities and aid in effective prosecution of the war, that—

> they are within the existing price structure; that is, they do not provide a basis for increases in railroad rates or for resistance to justifiable reductions in such a rate; and they are within existing levels of production costs, that is, they do not provide the basis for increasing production costs in comparable industries or occupations. The correction of the gross inequities disclosed by the facts of record is indispensable to the effective prosecution of the war.

Now, in paragraph 21 of that report, the Board states:

> The average earnings of the 73 classes of nonoperating railroad employees involved in this dispute embracing skilled, semiskilled, and unskilled workers, as of October 1942, were 73.8 cents an hour. The prevailing minimum wage for these employees is 46 cents an hour.

In paragraphs 32 and 33, the Board states where and upon what basis it finds the gross inequities and justifications for its recommendations for the increase. I will read those two paragraphs with your permission.

Preceding these two paragraphs, the Board has analyzed the trend in wages in the railway industry for these 73 classes of employees and the trend in wages in other industries for different periods. For instance, as in 1920 and 1940; the period 1926–29 and 1940; and the period 1936–40.

After stating what those gross inequities are, as we claimed in our hearings before the Board, the Board said this:

> 32. Of much greater significance, however, in relation to the existence of gross inequities, are the facts disclosed by comparative wage trends during the years 1941 and 1942. These unfavorable differentials are in addition to those noted above as of the end of 1940. The comparisons are confined to the interval between December 1940 and December 1942.
>
> 33. The 73 classes of railroad employees received during this period an increase of 10 cents an hour in basic wage rates. In manufacturing industries the closest approximation of the change in wage rates is the change in straight-time hourly earnings. The increase for all manufacturing industries in straight-time earnings was 19.4 cents per hour, or 9.4 cents more than the rate change for these railroad employees.

Then, if I may, I will skip paragraph 43 of the report. I have called attention to paragraph 43 which is reproduced in the Senate hearings, and, of course, the report of the Board is dated May 24, 1943. I want to ask to have inserted in the record, Mr. Chairman, some figures showing the straight-time average hourly earnings of these 73 classes of railway employees that are here before this committee now, and the employees of all manufacturing industries for the years 1936 to 1942, and then the earnings for July 1943.

(The table referred to is as follows:)

	Railway hourly earnings	Outside manufacturing industry		Railway hourly earnings	Outside manufacturing industry
	Cents	*Cents*		*Cents*	*Cents*
1936	57.9	56.4	1940	63.7	67.0
1937	59.9	63.4	1941	67.1	73.8
1938	63.0	63.9	1942	73.8	85.3
1939	63.4	64.4	1943 (July)	74.0	96.3

They show and support the statements which the Emergency Board has made in the report and are substantially the same figures we used before the Emergency Board in the hearings.

Then there are also some figures here which the reporter has, that we would like to have copied into the record that show the percentages between the wages the railway workers and the workers in manufacturing industries over this period.

(The table referred to is as follows:)

B. During These Same Years, Before and After the Beginning of the War, the Wage Rates of Other Groups of American Workers Had Risen Much Faster and Much Higher

1. From 1936 to January 1941, while the rates of nonoperating railway employees rose only 8.6 percent, the wages of other industries were going up like this:

	Percent
All manufacturing industries	22.2
Durable goods	27.0
Nondurable goods	15.4
Nonferrous metals and their products	29.8
Iron and steel and their products	26.8
Machinery	25.3
Metal mining	23.6
Lumber and allied products	23.0
Stone, clay, and glass products	22.9
Food and kindred products	22.5

95000—44——2

	Percent
Chemical, petroleum, and coal products	22. 2
Tobacco manufacturers	21. 5
Quarrying and nonmetallic mining	21. 3
Transportation equipment	20. 0

(All data on outside industry, except where otherwise noted, in this and succeeding paragraphs, from U. S. Bureau of Labor Statistics monthly release, Hours and Earnings.)

2. Since January 1941 these nonoperating railway employees have had one increase—of 10 cents per hour, or 16 percent. Average hourly earnings of employees in other industries have gone up like this:

	Percent
All manufacturing industries	41. 3
Durable goods	41. 5
Nondurable goods	33. 0
Transportation equipment, except automobiles	44. 9
Lumber and timber basic products	42. 8
Quarrying and nonmetallic mining	38. 9
Nonferrous metals and their products	38. 3
Machinery, except electrical	36. 1
Iron and steel and their products	34. 9
Chemicals and allied products	34. 2
Tobacco manufacturers	31. 3
Metal mining	31. 0
Stone, clay, and glass products	27. 5
Food	27. 2

3. Putting these two periods together, the total discrimination against nonoperating railway workers adds up to an injustice of major proportions. Here is the comparison:

	Percent
Railway employees, hourly increase in 7-year period, 1936–43	30
All manufacturing employees	71
Durable goods employees	77
Nondurable goods employees	51

Mr. JEWELL. I think it might be important for me to read this statement which Senator Truman read into the Congressional Record as a part of his speech discussing Senate Joint Resolution 91, at page 10630 of the Congressional Record.

According to the New York Times of December 6:
On January 1, 1941, Mr. Fairless—

of the United States Steel—

added, the corporation's basic common labor rate in the Pittsburgh district was 62½ cents an hour; it was increased to 72½ cents on April 1, 1941, and to 78 cents on February 16, 1942, being now nearly 25 percent above the level of January 1, 1941, with the cost-of-living index advancing about 25 percent in the same period.

He said that the average hourly earnings of all the corporation's steel-producing and fabricating wage earners rose from $0.853 on January 1, 1941, to $1.159 last October, an increase of 35.9 percent, and during October the average weekly earnings of all such wage earners was $50.42, as compared with $33.01 in January 1941.

What I wanted to call attention to by reading that is two things: This is the industry in which the War Labor Board developed the so-called Little Steel formula. These employees have been given in that industry, an increase, by the War Labor Board, of 30 cents an hour since January 1, 1941. These railway employees here have only had 10 cents since then.

The lowest common labor rate in the steel industry is 78 cents, as of February 16, 1942. The minimum rate for these railroad workers is 46 cents.

Now, as to the manpower problem: Mr. Eastman, on September 1, 1943, in his capacity as Director of the Office of Defense Transportation, issued a statement that the railway industry was confronted with a critical manpower situation. He said that he was going to hold a series of conferences, and he proposed certain remedial action to be taken to meet that problem. Mr. Eastman also in appearing before a special board which I will talk about later, on October 28, 1943, made a statement on the manpower problem as it confronted the railroad industry which is reproduced in the Senate committee's record, pages 93 to 95, inclusive.

In appearing before the Senate committee on November 7 and 8, pages 78 to 92, Mr. Elmer E. Milliman, president, Brotherhood of Maintenance of Way Employees, one of these 15 organizations, made an extended statement and inserted in the record a substantial amount of data and proof with respect to the contracting out of railroad work by our railroad carriers, to outside contractors, apparently in order that they might get the work done that is required to be done, because they cannot get it done, and cannot get employees to do it at our railroad rates of pay. These contractors are paying almost twice as much as is being paid and can be paid by the railroads under the rates that are now fixed by our agreements and which we have not been able to change.

The Railroad Retirement Board keeps records for pensioning and retirement purposes, and unemployment insurance purposes, records of every employee that comes into the industry. They have reported that as of the year ended June 30, 1943, the carriers hired 1,045,000 new employees that had never heretofore worked in the industry. There are others, of course, who had worked and gone out and returned undoubtedly. These are new people who had never worked in the industry.

During that same period the industry covered by the Retirement Act and by the Interstate Commerce Act had increased its total force by only about 100,000.

That shows that the industry can attract new workers, but with its present rates it has been unable to hold workers.

When the report of the Emergency Board was made to the President on May 24, the President proceeded as he always has, and on May 27—that is to see the employees representatives—and on May 27 he saw the representatives of these organizations and expressed the view to them that this recommended increase of 8 cents per hour, which was to be affective February 1, 1943, should be accepted, although we had expressed our disappointment. The President urged that it be accepted and we agreed that it would be accepted.

It will be recalled, under section 10 of the Railway Labor Act and also Executive Order 9299, section 5, there is the 30-day period to elapse after the report is filed, the report of the Board is filed with the President, during which a change in conditions is not to be made, except by agreement and under 9299, in which the Economic Stabilization Director is given an opportunity during that 30-day period to report to the President of the United States the effect as he sees it of the recommendations of the Emergency Board upon the stabilization plan. So, there was no attempt made——

Mr. WOLVERTON. Mr. Chairman.

The CHAIRMAN. Mr. Wolverton.

Mr. WOLVERTON. You spoke of a conference between the representatives of management and labor with the President and that the 8-cents-per-hour increase, while it was disappointing to you, I understood you to say, was accepted on behalf of the men and the companies. Is that right?

Mr. JEWELL. Yes, sir, as to the employees, the President urged acceptance and we, the employee organizations, agreed.

Mr. WOLVERTON. Did it seem to meet with the approval of the President?

Mr. JEWELL. Well, I should think it would be obvious, Mr. Congressman. He urged us to accept it; yes.

Mr. WOLVERTON. In view of the fact that it would seem, as you say, obvious that he had accepted it, I was wondering then why it was referred to the Economic Stabilizer.

Mr. JEWELL. Well, the President in Executive Order 9299 issued February 4, paragraph 5 of that order, had provided during this 30-day period after the Emergency Board's report had been filed with him, within that period, the Economic Stabilization Director, upon his own behalf and in behalf of several other agencies having to do with the stabilization program, was to report to the President the views of the Economic Stabilization Director or these other agencies, as to the effect of the recommendations of the Emergency Board upon the whole stabilization program. He was to report his opinion as to what the effect would be; but if he made no report then at the end of 30 days, then it was assumed that it was understood, as we understood it, that the report was not to be regarded as in conflict with the stabilization policies of the Government.

So, on June 24, which was the expiration of this 30-day period, the carriers and the employees' organization had arranged a conference to write an agreement which would make effective the 8-cent increase recommended by the Emergency Board; make the same type of agreement we have always made in previous wage movements; but on June 22, Judge Vinson, the Economic Stabilization Director, who had been appointed to that office, we understand, on May 29, issued an order in which he said that the 8-cent increase should not become effective; and that within 10 days he would issue an opinion as to how he thought the matter should be handled. He did not report to the President as to the effect of this recommendation upon the stabilization policy. He issued an order saying that it should not become effective.

It might be well in passing to state that in the memorandum statement he filed with the Senate committee, he says he did not consult the President before he issued this order of June 22.

On June 30, Judge Vinson issued an opinion, in the form of a letter to the three members of the Emergency Board that had reported to the President on May 24 and on May 29—that letter is reproduced at pages 21 to 24 in the Senate committee hearings—he asked that Board to reconvene; revise their recommendations in the light of the suggestions he made in that opinion and gave in that opinion.

The chairman of the Board, under date of July 3, 1943, replied to Judge Vinson saying that the Board which reported to the President May 24 and May 29, 1943, had ceased to exist upon the filing of its report with the President and he said, among other things:

> The Emergency Board recommended to the President what it deemed to be a fair and reasonable settlement of the dispute, after giving full weight to the requirements of the stabilization program, and its authority under the program. On the record before the Board there is no justification for modifying its recommendations. The complete alteration of the basis of settlement suggested in your memorandum opinion would only result in the perpetuation of gross inequities, as well as in the creating of new ones, but it would remove the adjustment of railway labor disputes from the agencies established by the Railway Labor Act and would thereby jeopardize the procedures and machinery of that act. There is real danger that such outcome and such an approach would gravely impair the effective prosecution of the war.

That letter is not in the Senate committee's report, Mr. Chairman, and I have it here, if it may be inserted in your record.

(The letter is as follows:)

WASHINGTON, D. C., *July 3, 1943.*

Hon. FRED M. VINSON,
Director, Office of Economic Stabilization,
Washington, D. C.

DEAR MR. VINSON: This is to acknowledge receipt of your communication of June 30, which is the memorandum opinion referred to in your order of June 22, in connection with the wage increases for nonoperating railway employees recommended by the Emergency Board appointed February 20, 1943, of which I was chairman.

I am constrained at this time to make but two comments with respect to this memorandum opinion, in relation to your order that the 8-cent wage increase shall not become effective and that the Emergency Board may reconsider its recommendation and may make a revised recommendation to the President in light of your opinion.

First.—The Emergency Board was designated to investigate an unadjusted dispute between certain carriers and certain of their employees, and to report thereon to the President. The dispute involved requests for a union shop as well as for increases in wages, and the employees represented by 15 different labor organizations acted in concert and made uniform demands. Upon completion of the investigation and the submission of the report, the Emergency Board, as a board, ceased to exist. Personally, as you know, I am now serving on another Emergency Board, which is investigating a dispute involving the operating employees of the railroads. We have not been reconstituted or reconvened by the Chairman of the National Railway Labor Panel, we have not been requested by the President to serve him further in connection with this dispute; and no authority is vested in me to call the Board together for further action.

Second.—I respectfully submit that even if the Emergency Board were officially reconvened in its original capacity, no useful purpose would be served by a reconsideration of its recommendations on the basis of your memorandum opinion.

Essentially this memorandum opinion does not confine itself to, or even deal primarily with, the effects of our findings and recommendations upon the stabilization program; it seeks, rather, to mold the terms of settlement of the dispute between the carriers and their employees—which is a function, I venture to believe, entrusted exclusively to the Emergency Board.

The substandard test to which you make primary reference in your opinion, received our very careful consideration. The disposition made of it in our report to the President reflects our deliberate and informed conclusion as to the demands of the situation, in the interest of safeguarding the stabilization program as well as of settling the dispute involved.

The procedures you suggest are, in my judgment, entirely unworkable in the circumstances of this proceeding, except insofar as they may be effectuated through arbitrary action. There is no sound basis, grounded in available facts, for declaring in this Nation-wide industry that all wage rates below a uniform designated level involve substandards of living; nor is there any basis for recommending tapering adjustments in so-called related job classifications. Determinations of this character would be lacking in factual support, and they would tend to be construed as establishing absolute national standards and thereby promote inflationary adjustments for the economy as a whole.

These procedures would completely disregard, furthermore, the nature of the dispute submitted to the Emergency Board for investigation and report. Neither the employees nor the carriers sought to reconstitute the long-established wage relationships involved, and the record in the proceeding provides no foundation for altering the existing differentials, in cents per hour, between the various classes of nonoperating employees.

The Emergency Board recommended to the President what it deemed to be a fair and reasonable settlement of the dispute, after giving full weight to the requirements of the stabilization program and its authority under that program. On the record before the Board there is no justification for modifying its recommendations. The complete alteration of the basis of settlement suggested in your memorandum opinion would not only result in the perpetuation of gross inequities, as well as in the creation of new ones, but it would remove the adjustment of railway labor disputes from the agencies established by the Railway Labor Act and would thereby jeopardize the procedures and machinery of that act. There is real danger that such an outcome and such an approach would gravely impair the effective prosecution of the war.

I submit these comments solely on my own individual behalf, since the Emergency Board no longer exists as a functioning tribunal. My colleagues on that Board, as well as the Chairman of the National Railway Labor Panel, may of course communicate to you such views as they may deem to be necessary and proper.

Respectfully yours,

I. L. SHARFMAN,
Chairman, Railroad Emergency Board in Non-Operating Case.

Mr. PRIEST. Mr. Chairman, may I ask a question?

The CHAIRMAN. Mr. Priest.

Mr. PRIEST. Just in order to establish whether or not every means was exhausted for reaching an agreement through the regular channels, after the chairman of this Emergency Board notified Judge Vinson that he considered the Board dissolved and no longer in existence, the President, I believe, appointed a Special Emergency Board, and this Special Emergency Board made the recommendations which finally were accepted by the Economic Stabilization Director. Is that correct? And if that is correct, is that following out the procedure under the Railway Labor Act? In other words, does the President have the power under the act to appoint later this Special Emergency Board and accept recommendations from this Board?

Mr. JEWELL. The Special Board that you are referring to, Mr. Congressman, was not appointed by the President under the Railway Labor Act.

Mr. PRIEST. Under the Stabilization Act?

Mr. JEWELL. It was appointed by the President according to the language in the order under the First War Powers Act and under his powers as Commander in Chief and President of the United States, and that Board was instructed by the President, in the Executive order creating it, to make a report with recommendations to him as to how Judge Vinson's opinion of June 30 should be applied; not how this wage dispute should be settled; not what the merits and the dispute required, or justified; but how Judge Vinson's opinion of June 30 should be applied; and they did make such a report on November 4, and Judge Vinson did on November 8 approve that report.

Mr. PRIEST. It was not a recommendation for settling the original dispute, but for an interpretation as to the application of Judge Vinson's recommendations?

Mr. JEWELL. That is right; a board appointed by the President to advise Judge Vinson how to apply his opinion.

The CHAIRMAN. Apparently at this time it will be necessary for the committee to adjourn because of a special matter which is coming up on the floor of the House at this time, so the committee will adjourn to meet at 10 o'clock tomorrow morning.

(Thereupon, at 11:05 a. m., the committee adjourned to meet at 10 a. m. the following morning, Tuesday, December 14, 1943.)

RAILWAY PAY OF NONOPERATING EMPLOYEES

TUESDAY, DECEMBER 14, 1943

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D. C.

The committee met, pursuant to adjournment, at 10 a. m., in the committee room, New House Office Building, Hon. Clarence F. Lea (chairman) presiding.

The CHAIRMAN. The committee will come to order.

STATEMENT OF HON. FOSTER STEARNS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW HAMPSHIRE

Mr. STEARNS. Mr. Chairman, I would like to note my appearance. I am for the bill.

STATEMENT OF B. M. JEWELL—Resumed

The CHAIRMAN. Mr. Jewell, if you will proceed.

Mr. JEWELL. Mr. Chairman, first I want to explain that I did not realize yesterday that the House was to meet at 11 o'clock instead of 12, and I would like if I may, with your permission, to start back, to be sure that the record is correct, start back with the May 27 date and simply state that the President of the United States met the employees' representatives on that date and urged us to accept, and we did agree to accept the report of the Emergency Board which had been made to him on May 24.

Mr. CROSSER. Will you restate that, Mr. Jewell?

Mr. JEWELL. The President met the representatives of the employees on May 27; met Mr. Harrison on May 27, and urged that we accept, and later that day we did agree to accept the report of the Emergency Board, which report had been filed with the President on May 24, and 29, which recommended the 8 cents an hour increase effective February 1, 1943.

The CHAIRMAN. So, as I understand it, in substance you are now asking Congress to approve the agreement that was made at that time?

Mr. JEWELL. That is it, in substance, yes.

What I want to make clear, Mr. Chairman, is, I have been advised that the record will probably show that I left an inference that the President also met the railroads or some men of the railroads, and they agreed at that time. I know nothing of any conferences that the railroads had with the President.

Mr. HARRIS. Mr. Chairman.

The CHAIRMAN. Mr. Harris.

Mr. HARRIS. I understood yesterday at that meeting there were representatives of the railroads and representatives of the employees.

Mr. JEWELL. If I left that impression, that is all the more reason why I should make clear the conference was held between the President of the United States and Mr. George M. Harrison; Mr. Harrison representing the 15 chiefs. No others were present,so far as I know, and that was Mr. Harrison's report to us. There were no others present but him.

Mr. HARRIS. Now, at later time, did you receive any information as to whether or nor the President and railroad representatives met and had an understanding or agreement?

Mr. JEWELL. I know of no conference the railroads had regarding this matter with the President of the United States, directly.

Mr. HOWELL. When you say "chiefs" you mean chiefs of the unions?

Mr. JEWELL. Chiefs of our railroad labor organizations, the 15 organizations; yes, sir.

Then following on, Mr. Chairman, on June 16, 1943, we made an arrangement with the three carriers' conference committees for a conference to be held on June 24 in order that we might set down and undertake to negotiate an agreement which would settle our dispute.

On June 23d, the day before that conference was to be held, we received information that Judge Vinson, under date of June 22d, had issued his order to the effect that the recommendations of the Emergency Board for the 8-cent increase should not become effective.

On June 30, Judge Vinson issued his opinion in a letter to the members of the—the three members—of the Emergency Board in which he in effect stated that a graduated increase in rates of pay would be approved and could be approved, but a general uniform increase could not be approved.

Mr. HARRIS. Mr. Chairman.

The CHAIRMAN. Mr. Harris.

Mr. HARRIS. What had you asked for at the time the President urged your organization to accept the 8 cents an hour increase?

Mr. JEWELL. Well, we urged that we were entitled to a larger increase in rates of pay than 8 cents. We also informed him that there had been for some time a discrimination against the railroad industry and railroad workers in the railroad industry with respect to the overtime after 40 hours per week and that matter was settled by the President agreeing that after the wage question was settled, he would cooperate with us in seeking an amendment to the Fair Labor Standards Act or an amendment to legislation which would correct that discrimination.

Mr. HARRIS. And that understanding was had at the time of the meeting when the President urged your organizations to accept the 8 cents over-all increase.

Mr. JEWELL. Well, yes; not in specific detail, but the President agreed on May 27, that he would cooperate with us in correcting that discrimination; but just how it would be done was to be worked out later. There were several questions as to how it could be done or should be done.

Discussions were had with the various officers of the Government between June 30, and August 6, and on August 6 and 7, at the request

of the representatives of the President, we, the railroad labor organizations and the three carriers' conference committees met on August 6 and 7 and made the agreement of August 7. The agreement provides for a uniform increase of 8 cents per hour, with a 54 cents per hour minimum; the increase to be retroactive and effective as of February 1, 1943.

Section 7 of the agreement is the same provision that has been in all of these types of agreements. That is, that it is made by the parties in settlement of the disputes that arose under the notice served September 25, 1942, all of which was under the Railway Labor Act; that the agreement is to continue on in accordance with the act and is to be made in accordance with that act.

Section 5 is a new provision that we had not put in any previous agreement and it reads, the first sentence:

This agreement is subject to any existing requirements of law.

The agreement of August 7 applies to the Carriers employing particularly 95 percent of all employees involved in the original dispute.

There are 140 carriers, parties to the dispute who are not signatories to the August 7 agreement.

If no cloud had been thrown over the August 7 agreement, these 140 carriers undoubtedly would before now have settled their dispute by agreeing to accept and apply that agreement. As soon as this legislation is enacted, thereby removing that cloud, these organizations will seek conferences with these carriers for the purpose of securing an agreement with them to accept and apply that August 7 agreement.

Mr. Chairman, I have the agreement here with a list of roads to which it applies. The agreement, however, is already reproduced in the Senate committee hearing at pages 57 to 71 and I now offer it in lieu of reading it. You may want it inserted.

The CHAIRMAN. I think probably that ought to be in the record.

Mr. JEWELL. All right, sir. I will offer for the record, Mr. Chairman, the agreement of August 7, 1943, with what we term the appendixes; that is, the list of carriers and organizations on each carrier, who have a dispute.

There is not in the Senate record anywhere, Mr. Chairman, a list of the carriers or organizations who are not signatory to that agreement. They may be put in at this point if you desire it, Mr. Chairman.

Mr. HARRIS. I think, Mr. Chairman, that should be included.

The CHAIRMAN. Very well.

(The documents above referred to are as follows:)

AGREEMENT

This agreement made as of August 1, 1943, by and between the participating carriers listed in appendices (A), (B), and (C), attached hereto and made a part hereof, and the Fifteen Cooperating Railroad Labor Organizations, signatory hereto, representing the employees as shown and described on said appendices, witnesseth:

It is agreed:

SECTION (1). That effective February 1, 1943, all hourly, daily, weekly, monthly and piece-work rates of pay for employees covered by this agreement will be increased in the amount of eight (8) cents per hour applied so as to give effect to this increase in pay irrespective of the method of payment. The increase provided for in this section shall be applied as follows:

(*a*) *Hourly rates.*—Add eight cents (8¢) to the existing hourly rates of pay.

(*b*) *Daily rates.*—Add to the existing daily rate an amount equivalent to the number of hours comprehended by the daily rate multiplied by eight cents (8¢).

(*c*) *Weekly rates.*—Add to the existing weekly rate an amount equivalent to the number of hours comprehended by the weekly rate multiplied by eight cents (8¢).

(*d*) *Monthly rates.*—Add to the existing monthly rate an amount equivalent to the number of hours comprehended by the monthly rate multiplied by eight cents (8¢).

(*e*) *Piece work.*—Where piece-work rates of pay are in effect on carriers having special rules as to the application of an increase or decrease in such rates, such rules shall apply. In the absence of any definite rule governing, the equivalent of eight cents (8¢) per hour shall be added to the unit piece-work price.

(*f*) *Red caps.*—Compensation of Red Caps will be increased eight cents (8¢) per hour, and this amount will be multiplied by the number of hours paid for, and this sum will be added to the earnings of Red Caps regardless of the method of determining their earnings, with the understanding that their basic hourly rate or hourly guarantee shall be not less than fifty-four cents (54¢).

(*g*) *Minimum daily increases.*—The increases in rates of pay described in paragraphs (*a*) to (*f*), both inclusive, shall be not less than sixty-four cents (64¢) per day for each full-time day of eight (8) hours, required to be paid for by the rules agreement. In instances where under existing rules agreements an employee is worked less than eight hours per day, the increase will be determined by the number of hours required to be paid for by the rules agreement.

SEC. (2). No rate of pay shall be less than fifty-four cents (54¢) per hour. Insofar as concerns deductions which may be made from this rate of 54¢ under Section 3 (m) of the Fair Labor Standards Act of 1938, they may continue to be made to the extent that such deductions were being legally made as of August 31, 1941.

SEC. (3). Increases in wages provided for in Sections (1) and (2) shall be computed in accordance with the wage or working conditions agreement in effect between each carrier and each labor organization of employees, and in instances where fixed daily, weekly or monthly rates are paid for all services rendered, the increases in wages shall be applied in such manner as will give effect to the number of hours used in fixing said rates and to the equivalent hours for special allowances included in said rates. Special allowances not included in said rates will not be increased.

SEC. (4). The compensation of employees covered by this agreement will be increased retroactively for the period from February 1, 1943, to July 31, 1943, both inclusive, at the rate of eight cents (8¢) per hour, and such amounts due up to and including July 31, 1943, shall be paid in cash with the understanding that such money should be used by the employees to purchase United States War Savings Bonds. All employees who were on the pay roll of the carrier on February 1, 1943, or who were hired subsequent thereto, regardless of whether they are now in the employ of the carrier, shall receive the amounts to which they are entitled under this agreement. Overtime hours will be computed in accordance with the individual schedules for all overtime hours paid for.

SEC. (5). This agreement is subject to any existing requirements of law. Representatives, designated by the respective parties shall advise the President of the United States of this agreement, and will, so far as possible, agree upon and furnish to the President any information he may require.

SEC. (6). This agreement is subject to approval of court with respect to carriers in the hands of receivers or trustees, and to confirmation as may be required by the labor organizations signatory hereto.

SEC. (7). This agreement is in settlement of the disputes growing out of the notices served, on or about September 25, 1942, by the labor organizations on the carriers listed in Appendices (A), (B), and (C) attached hereto and made a part hereof and shall be construed as a separate agreement by and on behalf of each carrier party hereto and its employees represented by each labor organization as heretofore stated; shall be effective as of August 1, 1943, and shall remain in effect until changed or modified in accordance with the provisions of the Railway Labor Act, as amended.

Signed at Washington, D. C., this seventh day of August 1943.

For the participating carriers listed in Appendix (A):

H. A. Enochs, *Chairman*; C. W. Van Horn; J. M. Horning; J. N. Smith; G. J. Ray.

For the participating carriers listed in Appendix (B):

D. P. Loomis, *Chairman*; L. Renbill; J. G. Touan; J. W. Green; J. G. McLean.

For the participating carriers listed in Appendix (C):

J. B. Pavoith, *Chairman;* W. W. ———; C. S. Cannon; H. H. Lassite; Robert V. Halsey.

For the employees represented by the participating labor organizations:

International Association of Machinists, by H. J. Carr; International Brotherhood of Boilermarkers, Iron Ship Builders and Helpers of America, by J. A. Franklin; International Brotherhood of Blacksmiths, Drop Forgers, and Helpers, by Roy Horn; Sheet Metal Workers, International Association, by L. M. Wisklein; International Brotherhood of Electrical Workers, by J. J. Duffy; Brotherhood Railway Carmen of America, by F. H. Knight; International Brotherhood of Firemen and Oilers, Round Honse aud Railway Shop Laborers, by George Wright; Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, by E. M. Hanson; Brotherhood of Maintenance of Way Employees, by E. E. Milliman; the Order of Railroad Telegraphers, by V. O. Gardner; Brotherhood of Railroad Signalmen of America, by A. E. Lyon; National Organization Masters, Mates and Pilots of America, by James J. Delaney; National Marine Engineers' Beneficial Association, by Samuel J. Hogan; International Longshoremen's Association, by Jos. P. Ryan; Hotel and Restaurant Employes' International Alliance and Bartenders' International League of America, by Edward Flore; B. M. Jewell, Chairman, Employes' National Conference Committee; President, Railway Employes' Department, American Federation of Labor.

APPENDIX A. *Eastern railroads*

Represented by the Eastern Carriers' Conference Committee, 1942, on which the following notice was served on or about Sept. 25, 1942, by the organizations shown below

Second paragraph of notice reads:
"We propose that you agree: That all employees represented by this organization and who are eligible to membership in this organization shall become members in good standing of this organization within 60 days from the date this proposal is accepted and made effective and shall remain members in good standing of this organization as a condition precedent to continued employment; provided that these conditions shall apply to employees hired after date they are effective, but these employees will be allowed a period of 90 days from the date hired to secure such membership."
Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees.
Brotherhood of Maintenance of Way Employees.
Order of Railroad Telegraphers.
Brotherhood of Railroad Signalmen of America.
International Association of Machinists.
International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America.
International Brotherhood of Blacksmiths, Drop Forgers and Helpers.
Sheet Metal Workers' International Association.
Third paragraph of notice reads:
"The increase in rates of pay we propose and request is: That all wage rates now in effect be increased 20 cents an hour, provided that no employee shall be paid a rate of less than 70 cents an hour. Piece work, tonnage, or other methods of payment to be adjusted to give effect to these proposed increases."
International Brotherhood of Electrical Workers.
Brotherhood Railway Carmen of America.
International Brotherhood of Firemen, Oilers, Helpers, Roundhouse and Railway Shop Laborers.
National Organization Masters, Mates and Pilots of America.
National Marine Engineers' Beneficial Association.
International Longshoremen's Association,
Hotel and Restaurant Employees International Alliance and Bartenders International League of America, American Federation of Labor, Dining Car Employees.

(Authority is coextensive with notices served and with the scope of agreements as to classes of employees)
["UW" indicates authority covers a union shop and wage increase proposals; "W" indicates authority covers wage proposal only]

Railroads, etc.	Clerks, B. of Ry. and S. S. C. F. H. E. and S. E.	Maintenance of way, B. of M. of W. E.	Telegraphers, O. of R. T.	Signalmen, B. of R. S. of America	Railway employees' department, American Federation of Labor							Marine department employees				H. and R. I. A. and B. I. L. of America
					Machinists, I. A. of M.	Boilermakers, I. B. of B. I. S. B. and H. of America	Blacksmiths, I. B. of B. D. P. and H.	Sheet-metal workers, S. M. W. I. A.	Electrical workers, I. B. of E. W.	Carmen, B. R. C. of America	Firemen and oilers, I. B of F. O. etc.	Deck forces, N. O. M. M. and P. of America	Engine room, N. M. E. B. A.	Lighter captains, I. L. A.	Other than lighter captains, I. L. A.	Dining-car employees,
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15-a)	(15-b)	(16)
Akron & Barberton Belt R. R. Co		UW														
Akron, Canton & Youngstown Ry. Co. (includes Northern Ohio Ry. Co.) (T)	[1] W	W	UW		UW	UW	UW	UW	UW	UW	UW					
Ann Arbor R. R. Co	UW	UW	UW	UW	UW	UW	UW	UW	[2] UW	UW		UW	UW			
Baltimore & Ohio R. R. Co. (includes Dayton & Union R. R.)	[1] UW	[3] UW	[4] UW	UW	UW	UW	UW	UW	UW	UW	UW		UW		UW	UW
Baltimore & Ohio R. R. (New York Terminal region)	[1] W											UW	UW	UW		
Bessemer & Lake Erie R. R. Co	UW	[4] W	UW	UW		[4] W					UW					
Boston & Maine R. R	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Boston Terminal Co	UW	W	UW	UW												
Brooklyn Eastern District Terminal	UW											UW			UW	
Bush Terminal Co	UW											UW			UW	
Canadian National Ry. Lines in New England	W [1]	UW	UW		UW	UW	UW	UW	UW	UW	UW					
Champlain & St. Lawrence R. R. Co	W [1]	UW					UW			UW	UW					
St. Clair Tunnel Co	W [1]								UW							
United States & Canada R. R. Co	W [1]	UW								UW						
Canadian National Ry. Lines in New York	W [1]		UW													
Central R. R. Co. of New Jersey (T), (5)	W [1]	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW
New York & Long Branch R. R	W [1]	UW	UW	UW						UW	UW					
Wharton & Northern R. R	W [1]	UW														
Central Vermont Railway, Inc	UW	UW	UW		UW	UW	UW	UW	UW	UW	UW					
Central Vermont Terminal, Inc	UW															
Chicago, Indianapolis & Louisville Ry. (T)	UW	W	UW	W	UW	UW	UW	UW	UW	UW	UW					
Cincinnati Union Terminal Co	W [1]	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Chicago Union Station Co	UW	UW	UW		UW				UW		UW					
Dayton Union Ry. Co	UW	W	UW	UW						UW						
Delaware & Hudson R. R. Corporation	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					UW
Delaware, Lackawanna & Western R. R. Co	W [6]	W [6]	W [6]	W [6]	W [6]	W [6]	W [6]	W [6]	W [6]	W [6]	W [6]	W [6]		W [6]	W [6]	W [6]
Detroit & Toledo Shore Line R. R. Co	UW	UW			UW	UW	UW	UW	UW	UW						
Detroit Terminal R. R. Co	UW	UW			UW	UW	UW			UW						
Detroit, Toledo & Ironton R. R. Co	UW	UW			UW	UW	UW	UW	UW	UW	UW					
East Broad Top R. R. & Coal Co		UW														
Erie Railroad Co. (includes Chicago & Erie R. R.)	W [1] [6]	W [6]	W [6]	W [6]	W [6]	W [6]	W [6]	W [6]	W [6]	W [6]	W [6]	W [6]		W [6]	W [6]	W [6]
New Jersey & New York R. R. (T)	W [1] [6]	W [6]	W [6]	W [6]							W [6]					
Grand Trunk Western R. R. Co	W [1]	UW	UW	W	UW	UW	UW	UW	UW	UW	UW	UW	UW			UW
Huntingdon & Broad Top Mountain R. R. & Coal Co. (Pennsylvania)		W			UW	UW	UW	UW	UW	UW	UW					
Indianapolis Union Ry. Co	UW	W	UW	UW	UW	UW				UW						
Jay Street Connecting R. R	UW											UW		UW	UW	
Lehigh & New England R. R. Co		UW														
Lehigh Valley R. R. Co	UW	W	UW	UW	UW	UW	UW	UW	UW	UW	UW		UW	UW		UW

(T) Trusteeship. (R) Receivership.

[1] Union membership paragraph not included in notice served by the general chairman on this railroad, except for red caps on the Baltimore & Ohio R. R. Co. and Erie R. R. Co.
[2] Authorization includes telegraph linemen in the maintenance of way department represented by the I. B. of E. W.
[3] Includes employees at Camden Warehouses; Blue Line Transfer; Terminal Storage Warehouse, Washington, D. C.; Locust Point and Mount Clare Grain Elevators; Cincinnati Warehouse; B. R. & P. Warehouse.
[4] While union membership paragraph was contained in the notices served on this railroad, the general chairman subsequently requested withdrawal thereof.
[5] Any agreement reached will be subject to review by and to the approval or disapproval of the District Court of the United States for the District of New Jersey.
[6] The Eastern Carriers' Conference Committee—1942 is not authorized to represent this railroad insofar as the union membership paragraph of the notices served by the individual organizations is concerned.

APPENDIX A. *Eastern railroads*—Continued

Represented by the Eastern Karriers' Conference Committee, 1942, on which the following notice was served on or about Sept. 25, 1942, by the organizations shown below—Continued

Railroads, etc.	Clerks, B. of Ry. and S. S. C. F. H. E. and S. E.	Maintenance of way, B. of M. of W. E.	Railway employees' department, American Federation of Labor: Telegraphers, O. of R. T.	Signalmen, B. of R. S. of America	Machinists, I. A. of M.	Boilermakers, I. B. of B. I. S. B. and H. of America	Blacksmiths, I. B. of B. D. P. and H.	Sheet-metal workers, S. M. W. I. A.	Electrical workers, I. B. of E. W.	Carmen, B. R. C. of America	Firemen and oilers, I. B. of F. O. etc.	Marine department employees: Deck forces, N. O. M. M. and P. of America	Engine room, N. M. E. B. A.	Lighter captains, I. L. A.	Other than lighter captains, I. L. A.	Dining-car employees, H. and R. I. A. and B. I. L. of America
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15-a)	(15-b)	(16)
Mackinac Transportation Co												UW	UW			
Maine Central R. R. Co	UW	UW	UW	UW	UW	UW		UW	UW		UW					
Portland Terminal Co	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Monongahela Ry. Co	UW	UW		UW	UW	UW	UW	UW	UW	UW	UW					
Montour R. R		W			UW	UW	UW	UW	UW	UW	UW					
Mystic Terminal Co					UW		UW	UW	UW					UW	UW	
Newburgh & South Shore Ry					UW	UW	UW	UW	UW	UW	UW					
New York Central R. R. Co. (full-line agreements)	UW	UW			UW	UW	UW	UW	UW	UW	UW					
New York Central:																
Buffalo and east	UW [7]		UW	UW [8]								UW		UW		UW
West of Buffalo			UW	UW												UW [9]
Grand Central Terminal		UW [10]	UW													
Boston & Albany R. R. Co	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					UW
Cleveland, Cincinnati, Chicago & St. Louis Ry. Co. (including Peoria & Eastern Ry. Co. and Louisville & Jeffersonville Bridge & R. R. Co.)	UW	UW	UW	UW [11]	UW	UW	UW	UW	UW	UW	UW					
Federal Valley R. R		UW														
Cleveland Union Terminals Co	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Chicago River & Indiana R. R. Co. (Chicago Junction Ry. Co.)	UW	UW			UW	UW	UW	UW	UW	UW	UW					
Indiana Harbor Belt R. R. Co	UW	UW			UW	UW	UW	UW	UW	UW	UW					
Michigan Central R. R. Co	W [12]	UW	UW [13]	UW	UW	UW	UW	UW	UW	UW	UW					UW [10]
Pittsburgh & Lake Erie R. R. Co.) (including Lake Erie & Eastern)	UW	UW	UW	UW	UW	UW	UW	UW	UW		UW					
Troy Union R. R. Co	UW	UW		UW												
New York, Chicago & St. Louis R. R. Co	W [1]	W	UW	UW	UW	UW	UW	UW	UW	UW	UW					
New York Connecting R. R. Co	UW	W														
New York, New Haven & Hartford R. R. Co. (T)	UW	W	UW	W	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW		UW [13]
New York, Susquehanna & Western R. R. Co. (T)	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Pennsylvania R. R. Co	UW	UW	UW	UW								UW		UW	UW	UW
Baltimore & Eastern R. R. Co		UW		UW								UW			UW	
Long Island R. R. Co	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW				UW	
Pennsylvania-Reading Seashore Lines	UW	UW		UW							UW					
Pere Marquette Ry. Co	W [1]	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW			
Fort Street Union Depot Co	W [1]	UW			UW	UW	UW	UW	UW	UW						
Pittsburgh, Chartiers & Youghiogheny Ry. Co		UW														
Pittsburgh & Shawmut R. R. Co		UW														
Pittsburgh, Shawmut & Northern R. R. Co. (R)		W														
Pittsburgh & West Virginia Ry Co	UW	W	UW		UW	UW	UW	UW		UW	UW					
Reading Co	W [1]	W	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW			
Philadelphia, Reading & Pottsville Telegraph Co									UW							
Staten Island Rapid Transit Ry. Co		UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Union Depot Co. (Columbus, Ohio)	UW															
Union Freight R. R. Co. (Boston)	UW															
Union Inland Freight Station (New York)	UW	W														
Washington Terminal Co	UW	UW	UW	UW	UW			UW	UW	UW	UW					
Wheeling & Lake Erie Ry. Co. (including Lorain & West Virginia Ry. Co.)	UW	W	UW		UW	UW	UW	UW	UW	UW	UW					

(T) Trusteeship. (R) Receivership—Continued.

[7] Includes grain elevator employees at 60th St., New York, N. Y., and at Weehawken, N. J., and employees of the Buffalo Stock Yards covered by separate agreements.
[8] Authorization ineludes foremen covered by separate agreement.
[9] Includes train maids covered by separate agreement.
[10] Included in New York Central R. R. Co. authorization.
[11] Authorization does not include Louisville & Jeffersonville Bridge & R. R. Co.
[12] Includes Detroit Stock Yard employees.
[13] Authorization ineludes station restaurant employees.
[14] Authorization ineludes train dispatchers who are represented by the Order of Railroad Telegraphers

For the organizations:
B. M. JEWELL.
For the carriers:
H. E. JONES.

APPENDIX B. *Western railroads*

List of carriers as represented by the Western Carriers' Conference Committee, 1942, and their employees represented by the 15 cooperating railway labor organizations (listed below), in connection with notices for wage increase, a minimum rate and union shop served by the organizations on or about Sept. 25, 1942

ORGANIZATIONS

1. Order of Railroad Telegraphers.
2. International Association of Machinists.
3. International Brotherhood of Boilermakers, Iron Ship Builders and Helpers of America.
4. International Brotherhood of Blacksmiths, Drop Forgers and Helpers.
5. Sheet Metal Workers' International Association.
6. International Brotherhood of Electrical Workers.
7. Brotherhood Railway Carmen of America.
8. International Brotherhood of Firemen and Oilers, Round House and Railway Shop Laborers.
9. Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees.
10. Brotherhood of Maintenance of Way Employees.
11. Brotherhood of Railroad Signalmen of America.
12. National Organization Masters, Mates, and Pilots of America.
13. National Marine Engineers' Beneficial Association.
14. International Longshoremen's Association.
15. Hotel and Restaurant Employees' International Alliance and Bartenders' International League of America.

(The symbol "UW" means that authority given relates to union shop and wage proposals; the symbol "W" means that authority given relates to wage proposal only; the symbol "U" means that authority given relates to union shop proposal only)

[Authority is coextensive with scope of agreements except where otherwise noted]

Carriers	O. of R. T.	L. A. of M.	I. B. of B. I. S. B. and H. of America	I. B. of B. D. F. and H.	S. M. W. I. A.	I. B. of E. W.	B. R. C. of America	I. B. of F. and O.	B. of R. and S. C., F., H. and S. E.	B. of M. W. E.	B. of R. S. of America	N. O. M. M. and P. of America	N. M. E. B. A.	I. L. A.	H. and R. E. I. A. and B. T. L. of America
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
T—Alton R. R	UW	UW	UW	UW	UW	UW	UW	UW	W	UW	UW				UW
Alton & Southern R. R		W	W	W	W		W	W	W		W				
Atchison, Topeka & Santa Fe Ry	UW					UW [1]		UW	UW		UW	UW	UW		
Gulf, Colorado & Santa Fe Ry	UW					UW [1]		UW	UW		UW				
Panhandle & Santa Fe Ry	UW					UW [1]		UW	UW		UW				
Atchison Union Depot & R. R. Co	UW								UW						
Baltimore & Ohio Chicago Terminal R. R	UW	UW	UW	UW	UW	UW	UW	UW	W [2]	W	UW				
Belt Railway Co. of Chicago	UW	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
Butte, Anaconda & Pacific Ry		UW	UW	UW	UW	UW	UW			UW					
Camas Prairie R. R	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Chicago & Eastern Illinois R. R	UW	UW	UW	UW	UW	UW	UW	UW	W	UW	UW				UW
Chicago & Illinois Midland Ry	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
T—Chicago & North Western Ry	UW	UW	UW	UW	UW	UW	UW	UW	UW [3]	W	UW				UW [4]
Chicago & Western Indiana R. R	UW	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
Chicago, Burlington & Quincy R. R	UW [5]	UW	UW	UW	UW	UW	UW		UW	UW	UW				UW
Chicago Great Western Ry	UW	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T—Chicago, Milwaukee, St. Paul & Pacific R. R	UW	UW	UW	UW	UW	UW	UW	UW	UW	W	UW		UW		UW
T—Chicago, Terre Haute & Southeastern Ry	UW	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				UW
Chicago Produce Terminal Co									UW						
T—Chicago, Rock Island & Pacific Ry	UW	UW	UW	UW	UW	UW [1]	UW	UW	UW	UW	W				UW
T—Peoria Terminal Co	UW									UW					
Chicago, St. Paul, Minneapolis & Omaha Ry	UW	UW	UW	UW	UW	UW [1]	UW	UW	W	W	UW				UW
Colorado & Southern Ry	UW	UW	UW	UW	UW	UW	UW		W	W					
Colorado & Wyoming Ry		UW	UW	UW	UW		UW	UW							
Davenport, Rock Island & Northwestern Ry	UW								UW	UW					
T—Denver & Rio Grande Western R. R	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW				UW
Denver & Salt Lake Ry	W	W	W	W	W	W	W	W	W	W					
Denver Union Terminal Ry	UW	[6]							W [2]	UW	UW				
Des Moines Union Ry		UW	UW	UW	UW	UW	UW	UW	W	W					
Duluth, Missabe & Iron Range Ry	UW	UW	UW	UW	UW	UW	UW	UW	UW [3]	UW					
Duluth-Superior Bridge Co						UW									
Duluth Union Depot & Transfer Ry								UW	UW	UW					
Duluth, Winnipeg & Pacific Ry	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	UW					
East Portland Freight Terminal									UW						
Elgin, Joliet & Eastern Ry	UW	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
El Paso Union Passenger Depot									UW [7]						
T—Fort Dodge, Des Moines & Southern R. R		UW		UW		UW	UW	UW	UW	UW					
Fort Worth & Denver City Ry	UW	UW	UW	UW	UW	UW	UW	UW	UW	W	W				UW
Wichita Valley Ry	UW	UW	UW	UW	UW	UW	UW	UW	W	W	W				
Galveston, Houston & Henderson R. R	UW	UW	UW	UW	UW		UW	UW	UW	UW	UW				
Galveston Wharves										UW					
Great Northern Railway	UW	UW	UW	UW	UW	UW	UW	UW	UW [3]	UW	UW				UW
Green Bay & Western R. R	UW	UW	UW	UW	UW		UW	UW	UW	UW					
Kewaunee, Green Bay & Western R. R	UW	UW	UW	UW	UW		UW	UW	UW	UW					
Abnapee & Western Ry	UW	UW	UW	UW	UW		UW	UW	UW	UW					
Gulf Coast Lines, comprising—															
T— New Orleans, Texas & Mexico Ry	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— Beaumont, Sour Lake & Western Ry	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— Orange & Northwestern R. R	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— St. Louis, Brownsville & Mexico Ry	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— Iberia, St. Mary & Eastern R. R	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— New Iberia & Northern R. R	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— Houston & Brazos Valley Ry	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW				
T— San Antonio, Uvalde & Gulf R. R	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— Sugar Land Ry	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— Rio Grande City Ry	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— Asherton & Gulf Ry	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— San Antonio Southern Ry	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— San Benito & Rio Grande Valley Ry	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— Asphalt Belt Ry	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— Houston North Shore Ry	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
T— International-Great Northern R. R	UW [6]	UW	UW	UW	UW	UW	UW	UW	UW	W	UW				
Houston Belt & Terminal Ry	UW	UW		UW	UW		UW		UW	W	UW				
Illinois Central R. R	UW	UW	UW	UW	UW	UW	UW	UW	W	W	UW				UW
Yazoo & Mississippi Valley R. R	UW	UW	UW	UW	UW	UW	UW	UW	W	W	UW		UW		UW
Vicksburg, Shreveport & Pacific Ry	UW	UW	UW	UW	UW	UW	UW	UW	W	W	UW				UW
Alabama & Vicksburg Ry	UW	UW	UW	UW	UW	UW	UW	UW	W	W	UW				UW
Gulf & Ship Island R. R	UW	UW	UW	UW	UW	UW	UW	UW	W	W	UW				UW
Chicago & Illinois Western R. R							UW		W	W					
Illinois Terminal R. R. Co	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Joliet Union Depot Co									UW						

See footnotes at end of table.

95000—41—3

APPENDIX B. *Western railroads*—Continued

Carriers	O. of R. T.	L. A. of M.	I. B. of B. I. S. B. and H. of America	I. B. of B. D. F. and H.	S. M. W. I. A.	I B. of E. W.	B. R. C. of America	I. B. of F. and O.	B. of R. and S. C. F. H. E. and S. E.	B. of M. W. E.	B. of R. S. of America	N. O. M. M. and P. of America	N. M. E. B. A.	I. L. A.	H. and R. E. I. A. and B. T. L. of America
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Gulf Coast Lines, comprising—Continued.															
Kansas City Southern Ry	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW				UW
Arkansas Western Ry	UW									UW					
Fort Smith & Van Buren Ry	UW									UW					
Kansas City, Shreveport & Gulf Terminal Co									UW						
Joplin Union Depot Co	UW	UW	UW	UW	UW	UW	UW	UW	UW						
Kansas City Terminal Ry	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW				
King Street Passenger Station	UW			UW	UW	UW	UW	UW	UW						
Lake Superior Terminal & Transfer Ry		UW	UW	UW			UW	UW		UW					
Litchfield & Madison Ry							UW		UW	UW					
Louisiana & Arkansas Ry	UW	UW	UW	UW	UW	UW	UW	UW	W	UW					
Manufacturers Ry		UW	UW	UW											
Midland Valley R. R	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Kansas, Oklahoma & Gulf Ry	UW								UW	UW					
Oklahoma City-Ada-Atoka Ry	UW									UW					
R—Minneapolis & St. Louis R. R	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
T—Minneapolis, St. Paul & Sault Ste. Marie Ry	UW	UW	UW	UW	UW	UW	UW	UW [3]	UW	UW [6]	UW				UW
T— Duluth, South Shore & Atlantic Ry	UW	UW	UW	UW	UW	UW	UW	UW	W	UW					
T— Mineral Range R. R	UW	UW	UW	UW	UW	UW	UW	UW	W	UW					
Minnesota Transfer Ry		UW	UW	UW			UW		UW	UW					
Missouri-Kansas-Texas R. R	UW [6]	UW	UW	UW	UW [9]	UW	UW	UW	W	W	UW				UW
Missouri-Kansas-Texas R. R. Co. of Texas	UW [6]	UW	UW	UW	UW [9]	UW	UW	UW	W	W	UW				UW
Beaver, Meade & Englewood R. R										W					
T—Missouri Pacific R. R	UW	UW	UW	UW	UW	UW	UW	UW	W	W	UW				UW
T— Missouri-Illinois R. R	UW	UW	UW	UW	UW	UW	UW	UW		W		UW	UW		
Natchez & Louisiana Ry. Transfer Co												UW	UW		
Northern Pacific Ry. (includes former Minnesota & International and Big Fork & International Falls Rys.)	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW				UW
Northern Pacific Terminal Co. of Oregon	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Northwestern Pacific R. R	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Ogden Union Ry. & Depot Co	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Oregon, California & Eastern Ry										UW					
Peoria & Pekin Union Ry							UW	UW	UW						
Port Terminal Railroad Association		UW					UW		UW	W					
Pueblo Union Depot & R. R. Co									W						
St. Joseph Terminal R. R	UW							UW	UW	UW					
T—St. Louis-San Francisco Ry., (includes Birmingham Belt)	UW								W	UW	UW				UW
St. Louis, San Francisco & Texas Ry	UW								W	UW	UW				
T—St. Louis Southwestern Ry	UW	UW	UW	UW	UW	UW	UW	UW	W	UW	UW				
T— St. Louis Southwestern Ry. Co. of Texas	UW	UW	UW	UW	UW		UW	UW	W	UW	UW				UW
St. Paul Union Depot Co									UW	UW					UW
Salt Lake City Union Depot & R. R. Co									UW						
San Diego & Arizona Eastern Ry	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Southern Pacific Co.(Pacific Lines)	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW		UW
South Omaha Terminal Ry										UW					UW
Spokane, Coeur d'Alene & Palouse Ry	UW					UW				UW					
Spokane International R. R	UW								W						
Spokane, Portland & Seattle Ry	UW	UW	UW	UW	UW		UW	UW	UW	UW					UW
Oregon Trunk Ry	UW	UW	UW	UW	UW		UW	UW	UW	UW					UW
Oregon Electric Ry	UW	UW	UW	UW	UW		UW	UW	UW	UW					UW
United Railways Co	UW	UW	UW	UW	UW		UW	UW	UW	UW					UW
Spokane Union Station									UW						
Terminal Railroad Association of St. Louis	UW	UW	UW	UW	UW	UW	UW		W	UW	UW				
Texarkana Union Station Trust									W						
Texas & New Orleans R. R	UW	UW	UW		UW	UW	UW	UW	UW	W	UW				UW
Texas & Pacific Ry	UW	UW	UW	UW	UW	UW	UW	UW	W [2]	UW	UW				UW
Abilene & Southern Ry										UW					
Fort Worth Belt Ry										UW					
Pecos Valley Southern Ry										UW					
Texas-New Mexico Ry										UW					
Texas Short Line RY										UW					
Weatherford, Mineral Wells & Northwestern Ry															
Texas Mexican Ry	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Texas Pacific-Missouri Pacific Terminal R. R. of New Orleans	UW	UW	UW	UW	UW	UW	UW		UW	UW					
Tulsa Union Depot Co									W						
Union Pacific R. R	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW				UW
Union Terminal Co. (Dallas)	UW	UW	UW			UW	UW	UW	UW	UW	UW				
Union Terminal Ry. Co. (St. Joseph) (includes St. Joseph Belt)									W	W					
Wabash R. R	UW	UW	UW	UW	UW [8]	[4] UW	UW	UW	UW	UW	UW		UW		UW
T—Western Pacific R. R	UW	UW	UW	UW	UW	UW	UW	UW	UW	W	UW	UW	UW		UW
Wichita Union Terminal Ry	UW								UW [7]		UW				
Yakima Valley Transportation Co									UW	UW					

(T) Trusteeship. (R) Receivership. Subject to approval of court.

[1] Authorization includes telegraph and telephone linemen.

[2] On the Baltimore & Ohio Chicago Terminal R. R., Denver Union Terminal Ry., and Texas & Pacific Ry., red caps represented by the Brotherhood of Railway Clerks are included in this authorization for both wages and union shop.

[3] Authorization includes ore dock laborers but request by this group provides that increases are to be effective with opening of 1943 season, such group now being covered by an arbitration award covering the 1942 season.

[4] Authorization covers pantrymen, waiters in charge without stewards and waiters.

[5] Authorization includes car retarder operators.

[6] Authorization includes linemen.

[7] Includes red caps.

[8] Authorization includes water service and plumbing employees in the maintenance of way department.

[9] Authorization includes water service repairmen, but not including water service foremen.

For the organizations:

B. M. JEWELL.

For the carriers:

Appendix C. Southeastern railways

Which have authorized their representation by the carriers' conference committee, southeastern railways, 1942, in the matter of proposals submitted on behalf of certain employee groups, on or about Sept. 25, 1942, as to union membership and/or increases in wage rates

(Authority is limited to the employee groups shown below on behalf of which such proposals were submitted and which come within the scope of existing agreements)
[The symbol "UW" means that authority given relates to union shop and wage proposals; the symbol "W" means that authority given relates to wage proposal only].

Railways	Clerks	Maintenance of way	Telegraphers	Signalmen	Machinists	Boilermakers	Blacksmiths	Sheet-metal workers	Electrical workers	Carmen	Firemen, oilers, and shop laborers	Masters, mates, and pilots	Marine engineers	Dining-car employes	Longshoremen
Atlantic Coast Line	W	UW	UW	-------	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	-------
Atlanta & West Point	UW	UW	UW	-------	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------	-------
Western Railway of Alabama	UW	UW	UW	-------	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------	-------
Atlanta Joint Terminals	UW	UW	-------	-------	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------
Central of Georgia [1]	[2] UW [3] W	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------
Albany Passenger Terminal	UW	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------
Macon Terminal Co	UW	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------
Charleston & Western Carolina	-------	UW	UW	-------	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------
Chesapeake & Ohio	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	[4] W
Clinchfield	W	UW	UW	-------	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------	-------
Florida East Coast [1]	UW	-------	UW	UW	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------
Georgia	UW	UW	UW	-------	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------	-------
Augusta Union Station Co	UW	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------
Gulf, Mobile & Ohio	[5] UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------
Jacksonville Terminal Co	W	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------
Kentucky & Indiana Terminal	W	-------	UW	-------	-------	-------	-------	-------	-------	UW	-------	-------	-------	-------	-------
Louisville & Nashville	W	W	UW	W	UW	UW	-------	UW	-------	UW	UW	-------	-------	UW	-------
Nashville, Chattanooga & St. Louis	UW	W	UW	UW	UW	UW	UW	UW	UW	UW	UW	-------	-------	UW	-------
Norfolk & Portsmouth Belt Line	UW	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------
Norfolk Southern	W	W	UW	-------	UW	UW	UW	UW	UW	UW	UW	UW	UW	-------	-------
Norfolk & Western	UW	UW	UW	UW	UW	UW	-------	UW	UW	UW	UW	-------	-------	UW	-------
Richmond, Fredericksburg & Potomac	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------
Richmond Terminal Co	UW	-------	UW	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------
Seaboard Air Line [1]	W	W	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW	-------

Southern	W	W	UW	W	UW	UW	UW	UW	UW	UW	UW	UW	UW	-------	-------
Alabama Great Southern	W	W	UW	W	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------
Cin. Burnside & Cumberland River	W	W	UW	W	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------	-------
Cin. New Orleans & Texas Pacific	W	W	UW	W	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------
Georgia, Southern & Florida	W	W	UW	W	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------
Harriman & Northeastern	W	W	UW	W	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------
New Orleans & Northeastern	W	W	UW	W	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------
New Orleans Terminal	W	W	UW	W	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------
St. Johns River Terminal	W	W	UW	W	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------	-------
Tennessee Central	UW	W	UW	-------	UW	UW	UW	UW	-------	UW	-------	-------	-------	-------	-------
Virginian	W	W	UW	-------	UW	UW	UW	UW	UW	UW	UW	-------	-------	-------	-------

[1] Agreement negiotiated by the carrier conference committee, southeastern railways, for the disposition of the proposals involved herein is subject to court approval before it becomes binding as to this carrier.
[2] Laborers employed in and around stations, storehouses, and warehouses, etc., covered by schedule agreement effective Dec. 1, 1941.
[3] Clerks, warehouse foremen, etc., covered by schedule agreement effective Nov. 15, 1926.
[4] Toledo (Walbridge), Ohio, docks only, and above representation effective as of Apr. 1, 1943.
[5] Union-shop proposal made only on behalf of employees on northern and southern divisions covered by agreement effective June 1, 1937.

Approved for the carriers:

A. J. BIER.

Approved for the organizations:

B. M. JEWELL.

APPENDIX D. CARRIERS INDEPENDENTLY REPRESENTED

Statement showing carriers independently represented on which one or more of the 15 cooperating railway labor organizations served a notice on or about Sept. 25, 1942, for a "union shop" agreement and an increase in the existing rates of pay of 20 cents an hour—no employee to be paid less than 70 cents an hour

ORGANIZATIONS

1. International Association of Machinists.
2. International Brotherhood of Boilermakers, Iron Ship Builders & Helpers of America.
3. International Brotherhood of Blacksmiths, Drop Forgers and Helpers.
4. Sheet Metal Workers' International Association.
5. International Brotherhood of Electrical Workers.
6. Brotherhood Railway Carmen of American.
7. International Brotherhood of Firemen, Oilers, Roundhouse and Railway Shop Laborers.
8. Brotherhood of Railway and Steamship Clerks, Freight Handlers Express & Station Employees.
9. Brotherhood of Maintenance of Way Employes.
10. The Order of Railroad Telegraphers.
11. Brotherhood of Railroad Signalmen of America.
12. National Organization of Masters, Mates and Pilots of America.
13. National Marine Engineers' Beneficial Association.
14. International Longshoremen's Association.
15. Hotel & Restaurant Employes' International Alliance and Bartenders' International League of America.

["U" indicates union shop proposal; "W" wage increase proposal; and "UW" both union shop and wage increase proposal]

	Machinists (1)	Boilermakers (2)	Blacksmiths (3)	S. M. W. (4)	Elect. Wkrs. (5)	Carmen (6)	F. & O. (7)	Clerks (8)	M. of W. E. (9)	Telegraphers (10)	Signalmen (11)	M. M. & P. (12)	Marine Engrs. (13)	Longshoremen (14)	Dining Car E. (15)
MEMBERS OF THE AMERICAN SHORT LINE RAILROAD ASSOCIATION															
Alabama, Tennessee & Northern R. R. Corporation	[1]	[1]	[1]	[1]		[1]	[1]		[1]	[1]					
Apalachicola Northern Railroad Co									UW						
Atlantic & Yadkin Railway Co									W	UW					
Barre & Chelsea Railroad Co						UW			UW						
Belfast & Moosehead Lake R. R. Co									UW						
Blue Ridge Railway Co									W						
Canton Railroad Co	UW	UW	UW	UW	UW	UW	UW								
Carolina & Northwestern Ry. Co									W	UW					
Chicago Short Line Ry. Co	UW														
Chicago South Shore & South Bend R. R	UW		UW			UW		UW	UW						
Chicago Tunnel Co								UW							
Chicago Tunnel Terminal Co								UW							
Chicago, West Pullman & Southern R. R. Co	UW	UW							UW						
Copper Range Railroad Co									UW						
Danville and Western Railway Co								W	W	UW					
Denver Union Stock Yard Co								UW							
Des Moines & Central Iowa R. R									UW						
East Tennessee & Western N. C. R. R. Co									W						
Escanaba & Lake Superior R. R. Co	UW	UW	UW	UW	UW	UW	UW		UW						
Fonda, Johnstown & Gloversville R. R. Co								UW							
Georgia & Florida R. R								UW							
High Point, Randleman, Asheboro & So. R. R. Co									W	UW					
Illinois Northern Ry	UW	UW	UW	UW		UW			UW						
Lackawanna & Wyoming Valley R. R. Co					UW			UW [2]	UW						
Louisiana & North West R. R. Co	UW	UW	UW	UW	UW	UW	UW		UW						
Macon, Dublin & Savannah R. R. Co	UW	UW	UW	UW	UW	UW	UW		W						
Manistee & Northeastern Ry. Co								UW							
Marinette, Tomahawk & Western R. R. Co									W						
Maryland & Pennsylvania R. R. Co	UW	UW	UW	UW	UW	UW	UW			UW					
Midland Continental R. R									UW						
Missouri and Arkansas Railway Co	UW	UW	UW	UW	UW	UW	UW		UW	UW					
Montpelier and Wells River R. R	UW	UW				UW	UW		UW						
New York Dock Ry								UW				UW		UW	
Ogden Union Stockyards Co								UW							
Port Utilities Commission, Charleston, S. C								UW							
Quanah, Acme & Pacific Ry. Co									UW	UW					
Rapid City, Black Hills & Western R. R									UW						
St. Johnsbury & Lake Champlain R. R. Co	UW	UW				UW	UW		UW						
Sand Springs Railway Co	UW	UW	UW	UW	UW	UW									
Wichita Falls & Southern R. R. Co									UW						
Yadkin Railway Co									W	UW					
OTHER INDEPENDENTLY REPRESENTED CARRIERS															
Atlanta, Birmingham & Coast R. R								W	UW	UW					
Bangor & Aroostook R. R	UW	UW	UW	UW				W	UW	UW					
Chicago, Indianapolis & Louisville Ry															UW
Chicago, North Shore & Milwaukee R. R															UW
Detroit & Mackinac Ry. Co									W	UW					
Erie Railroad (includes Chicago & Erie R. R.) [3]	U	U	U	U	U	U	U	U [4]	U	U	U	U		U	U
Lake Terminal R. R								UW							
Waterloo, Cedar Falls & Northern R. R									UW						
Western Allegheny R. R. Co									UW						
Railway Express Agency, Inc	UW		UW					UW							
REFRIGERATOR CAR COMPANIES															
American Refrigerator Transit Co						UW	UW								
Burlington Refrigerator Express Co						UW									
Fruit Growers Express Co						UW		UW							
Western Fruit Co						UW									
Merchants Despatch Transportation Corporation	UW	UW	UW	UW	UW	UW	UW								

[1] Dispute withdrawn.
[2] Wage issue was not included in original authorization, it having been assumed a standby agreement had been entered into. Wage issue was reentered (Transcript of Proceedings, vol. 26, pp. 3468–72).
[3] This carrier was represented by the Eastern Carriers' Conference Committee with reference to the wage issue.
[4] Notice includes only Red Caps for union shop proposal.

APPENDIX E. EMPLOYEES' EXHIBIT NO. 2A, B, C; 15 COOPERATING RAILWAY LABOR ORGANIZATIONS

Statement showing carriers and organizations which have entered into stand-by agreements in the union shop-wage increase dispute of 1942

ORGANIZATIONS

1. International Association of Machinists.
2. International Brotherhood of Boilermakers, Iron Ship Builders & Helpers of America.
3. International Brotherhood of Blacksmiths, Drop Forgers and Helpers.
4. Sheet Metal Workers' International Association.
5. International Brotherhood of Electrical Workers.
6. Brotherhood Railway Carmen of America.
7. International Brotherhood of Firemen, Oilers, Roundhouse and Railway Shop Laborers.
8. Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express & Station Employees.
9. Brotherhood of Maintenance of Way Employes.
10. The Order of Railroad Telegraphers.
11. Brotherhood of Railroad Signalmen of America.
12. National Organization of Masters, Mates and Pilots of America.
13. National Marine Engineers' Beneficial Association.
14. International Longshoremen's Association.
15. Hotel & Restaurant Employes' International Alliance and Bartenders' International League of America.

EMPLOYEES' EXHIBIT NO. 2-A (AMENDED)—WITNESS: B. M. JEWELL

["U" indicates union shop proposal; "W" wage increase proposal; and "UW" both union shop and wage increase proposals]

Carriers—Eastern Region	Machinists (1)	Boilermakers (2)	Blacksmiths (3)	S. M. W. (4)	Elect. Wkrs. (5)	Carmen (6)	F. & O. (7)	Clerks (8)	M. of W. E. (9)	Telegraphers (10)	Signalmen (11)	M. M. & P. (12)	Marine Engrs. (13)	Longshoremen (14)	Dining Car E. (15)
Akron Union Passenger Depot Co								UW							
Berlin Mills									U						
Buffalo Creek								W	UW	UW					
Canton R. R									W						
Federal Valley R. R. Co									UW						
Lehigh & Hudson River Ry. Co								UW	UW						
Lehigh & New England R. R. Co	UW	UW		UW	UW	UW									
Maryland & Pennsylvania R. R. Co									W						
Philadelphia Belt Line									UW						
Pittsburgh Jt. Stock Yards Co								UW							
Railroad Perishable Inspt. Agency								UW							
Reading Company															UW
Seaboard Terminal & Refrigerator Co								W							
Toledo Terminal Railroad Co	UW	UW	UW	UW	UW	UW	UW	UW	UW	UW					
Union Belt of Detroit	UW	UW	UW	UW	UW	UW	UW	UW	UW						

EMPLOYEES' EXHIBIT NO. 2-B (AMENDED)—WITNESS: B. M. JEWELL

Carriers—Southeastern Region	Machinists (1)	Boilermakers (2)	Blacksmiths (3)	S. M. W. (4)	Elect. Wkrs. (5)	Carmen (6)	F. & O. (7)	Clerks (8)	M. of W. E. (9)	Telegraphers (10)	Signalmen (11)	M. M. & P. (12)	Marine Engrs. (13)	Longshoremen (14)	Dining Car E. (15)
Atlanta Terminal Co			UW		UW	UW	UW	W	UW	UW	W				
Barrett, F. R. Stevedore (agent of N. & W., Norfolk, Va.)								UW							
Birmingham Terminal Co					UW			W	UW	UW	W				
Charleston Union Station								W							
Chattanooga Station Co								W	UW	UW	W				
Columbia Union Station Co								W	UW						
Durham Union Station Co								W							
Florida East Coast Ry. Co									UW						
Gulf Terminal Co								W							
Lenoir Car Works	UW		UW	UW	UW	UW									
Meridian Terminal Co								W							
Nashville Terminal Co								W	W						
Norfolk Terminal R. R. Co								UW							
Relay Depot Assn. (East St. Louis)								W							
Savannah Union Station						UW		W	UW	UW					
Tampa Union Station								W							
Southern Railway Co.:															
Belt Ry. of Chattanooga									W						
Carolina & Tennessee Southern									W						
State University Railway									W						
Woodstock & Blockston									W						
Winston-Salem Southbound									UW	UW					

EMPLOYEES' EXHIBIT NO. 2-C (AMENDED)—WITNESS: B. M. JEWELL

Carriers—Western Region	Machinists (1)	Boilermakers (2)	Blacksmiths (3)	S. M. W. (4)	Elect. Wkrs. (5)	Carmen (6)	F. & O. (7)	Clerks (8)	M. of W. E. (9)	Telegraphers (10)	Signalmen (11)	M. M. & P. (12)	Marine Engrs. (13)	Longshoremen (14)	Dining Car E. (15)
Alameda Belt Line								UW							
Ark. & Memphis Bridge & Term. Co										UW					
Ashley, Drew & Northern									UW						
Atchison, Topeka & Santa Fe															UW
Burlington-Rock Island	UW	UW	UW	UW	UW	UW		UW	UW	UW					
Central California Traction Co									UW						
Chicago, Burlington & Quincy							UW								

APPENDIX E.—*Employees' Exhibit No. 2A, B, C; 15 Cooperating Railway Labor Organizations*—Continued

Statement showing carriers and organizations which have entered into stand-by agreements in the union shop-wage increase dispute of 1942—Con.

EMPLOYEES' EXHIBIT NO. 2-C (AMENDED)—WITNESS: B. M. JEWELL—Continued

	Machinists (1)	Boilermakers (2)	Blacksmiths (3)	S. M. W. (4)	Elect. Wkrs. (5)	Carmen (6)	F. & O. (7)	Clerks (8)	M. of W. E. (9)	Telegraphers (10)	Signalmen (11)	M. M. & P. (12)	Marine Engrs. (13)	Longshoremen (14)	Dining Car E. (15)
Chicago Produce Terminal Co									UW						
Denver & Salt Lake Ry. Co											UW				
Denver Jt. Car Intchg. & Inspt. Bur						UW									
Dul. So. Shore & Atlantic Ry											UW				
East St. Louis Junction R. R. Co	UW	UW	UW				UW								
Fred Harvey Service, Inc								UW							
Harbor Belt Line R. R. (Los Angeles)	UW	UW	UW	UW	UW	UW	UW	UW							
Lake Superior & Ishpeming	UW	UW	UW	UW		UW									
LaSalle St. Station Co	UW	UW		UW	UW	UW	UW								
Louisiana & Arkansas											UW				
Memphis Union Station Co	UW	UW		UW	UW	UW	UW	W	W	UW	UW				
Minn. Northfield & Southern	UW	UW	UW		UW	UW		UW	UW						
Mineral Range Ry											UW				
Minnesota Western									UW	UW					
Missouri Produce Yards (K. C., Mo.)								W							
No. Pac. Coast Freight Bureau								UW							
Overland Term. Warehouse (Los Angeles)								UW							
Pacific Car Demurrage Bureau								UW							
Pacific Coast Railroad Co								UW							
Pacific Coast Co								UW							
Pacific Fruit Express Co						UW		UW							
Petaluma & Santa Rosa R. R. Co												UW	UW		
Pueblo Jt. Car Intchg. & Inspt. Bureau						UW									
Railway Transfer Co. (City of Minn.)									UW						
Rock Island-Frisco Terminal								W							
Sacramento Northern									UW						
St. Joseph Union Depot Co								W							
St. Louis & Belleville Elect. Ry. Co						UW									
St. Louis & O'Fallon						UW									
St. Paul Union Depot Co	UW	UW	UW	UW	UW	UW	UW								
San Antonio Jt. Car Intchg. Assn						UW									
Sioux City Terminal									UW						
Southern Pacific De Mexico								UW							
Stock Yards Dist. Agency (Chicago)								UW							
Tidewater Southern									UW						
Trans-Continental Freight Bureau								UW							
Union Railway Co. (Memphis)	UW	UW	UW	UW	UW	UW	UW	W	W						
Union Terminal Co. (Dallas): Dallas Car Intchg. & Inspt. Bur	UW	UW			UW	UW		UW							
Utah Railway Company										UW					
Western Warehousing Co. (Chicago)								UW							
Wichita Union Terminal Assn						UW									

CHICAGO, ILL., *Mar. 10, 1943* (as amended Apr. 30, 1943).

APPENDIX F. *List of 73 classes of railroad employees represented by the 15 cooperating railway labor organizations (from employees' exhibit No. 3, pp. 22–27)*

Div. No.	Interstate Commerce Commission reporting Divisions as of 1942	Number of employees middle of month September 1942
5	Chief clerks (minor departments) and assistant chief clerks and supervising cashiers	9,832
6	Clerks and clerical specialists (A)	10,225
7	Clerks (B and C)	100,187
8	Mechanical device operators (office)	5,404
9	Stenographers and secretaries (A)	14,823
10	Stenographers and typists (B)	1,179
12	Ticket agents and assistant ticket agents	4,689
14	Telephone switchboard operators and office assistants	3,835
15	Messengers and office boys	968
16	Elevator operators and other office attendants	11,394
18	Patrolmen and watchmen	3,562
24	Janitors and cleaners	5,268
28	Janitor and building gang foremen (skilled labor)	4,038
30	Bridge and building carpenters	14,011
31	Bridge and building painters	787
32	Bridge and building painter helpers	3,192
33	Masons, bricklayers, plasterers, and plumbers	1,482
34	Maintenance of way and structures helpers and apprentices	8,163
35	Portable steam equipment operators	4,165
36	Portable steam equipment operator helpers	743
37	Pumping equipment operators	1,020
38	Gang foremen (extra gang and worktrain laborers)	5,421
40	Gang or section foremen	24,067
41	Extra gang men	62,254
42	Section men	135,543
45	Maintenance of way laborers (other than track and roadway) and gardeners and farmers	4,579
46	Gang foremen (signal and telegraph skilled trades labor)	1,242
47	Signalmen and signal maintainers	7,748
48	Linemen and signal maintainers	1,954
49	Assistant signalmen and assistant signal maintainers	1,629
50	Signalmen and signal maintainer helpers	2,276
51	General and assistant general foremen (stores)	2,577
54	Blacksmiths	5,964
55	Boilermakers	13,133
56	Carmen (A and B)	17,283
57	Carmen (C and D)	56,304
58	Electrical workers (A)	8,107
59	Electrical workers (B)	2,550
60	Electrical workers (C)	283
61	Machinists	46,277
62	Sheet metal workers	644
64	Skilled trades helpers (M. of E. and Stores)	10,021
65	Helper trades apprentices (M. of E. and Stores)	83,530
66	Regular apprentices (M. of E. and Stores)	1,725
67	Coach cleaners	8,657
68	Gang foremen (shops, enginehouses, and power plants)	11,472
69	Gang foremen (stores and ice, reclamation, and timber-treating plants)	1,186
70	Classified laborers (shops, enginehouses, and power plants)	25,063
71	General laborers (shops, enginehouses, and power plants)	24,443
72	General laborers (stores and ice, reclamation, and timber-treating plants)	16,246
73	Stationary engineers (steam)	1,334
74	Stationary firemen, oilers, coal passers, and water tenders	2,509
78	Station agents (supervisory—major stations—nontelegraphers)	2,211
79	Station agents (smaller stations—nontelegraphers)	5,457
80	Station agents (telegraphers and telephoners)	14,443
82	Chief telegraphers and telephoners or wire chiefs	842
83	Chief telegraphers and telephoners and clerk telephoners	9,830
87	Telegraphers, telephoners, and station attendants	15,084
88	Baggage, parcel room, and station attendants	7,080
89	General foremen (freight stations, warehouses, grain elevators, and docks)	354
90	Gang foremen (freight station, warehouse, grain elevator, and dock labor)	428
91	Callers, loaders, sealers, and perishable-freight inspectors	10,410
92	Truckers (stations, warehouses, and platforms)	24,302
93	Laborers (coal and ore docks and grain elevators)	1,856
94	Common laborers (stations, warehouse, platforms, and grain elevators)	4,450
96	Chefs and cooks (restaurants or dining cars)	5,105
97	Waiters, camp cooks, kitchen helpers, etc	13,678
98	Officers, workers, and attendants on barges, launches, ferry boats, towing vessels, and steamers, and shore workers	6,892
102	Bridge operators and helpers	1,010
103	Crossing and bridge flagmen and gatemen	13,552

Mr. JEWELL. The next date of importance in the matter is October 16, 1943, when the President of the United States issued Executive Order No. 9388 creating a special Advisory Board. In the order itself the President states that he created this Board under the authority given him in the First War Powers Act under his authority as Commander in Chief and under his authority as President of the United States.

It is clear by the order that this special Board was not created under the Railway Labor Act, nor under the Stabilization Act.

This Board was instructed by the Executive order creating it to advise how Judge Vinson's opinion of June 30 on graduated increases should be applied. This Board was not chosen to rehear the dispute. This Board was not authorized to determine what increases should be granted or the means to settle the dispute, but it was instructed to advise how Judge Vinson's opinion of June 30 could be applied.

The Board held its hearings on October 28. On November 4, this special Advisory Board recommended to the President that the August 7 agreement be so amended as to substitute a sliding scale of increases ranging from 10 cents for the lower-paid to 4 cents for the higher-paid employees, for the uniform 8 cents an hour increase provided for in the regular Emergency Board report and provided for in the August 7 agreement.

On November 8, Judge Vinson stated that he would not disapprove these recommendations.

We of the labor organizations made a compilation to determine what the cost of the two proposals would be; what the cost of the two types of increases would be. We found that the cost of the 8 cents per hour uniform increase recommended by the Emergency Board and provided for in the August 7 agreement would be approximately $185,000,000 a year. The cost of Judge Vinson's graduated-scale increases from 10 cents to 4 cents, would be $167,000,000 a year. There would be a difference therefore roughly of $18,000,000 a year.

The difference between the two would be approximately 1 percent of the total pay roll.

Mr. HALLECK. Mr. Chairman.

The CHAIRMAN. Mr. Halleck.

Mr. HALLECK. Has that been disputed by Judge Vinson or anyone else?

Mr. JEWELL. Not to my knowledge.

Mr. O'HARA. Mr. Chairman.

The CHAIRMAN. Mr. O'Hara.

Mr. O'HARA. Mr. Jewell, how many different hearings were had before how many different groups upon the question of this wage increase? Can you say?

Mr. JEWELL. The only hearings had were before the regular Railway Labor Act Emergency Board from March 1 to May 7, 1943; 44 hearing days.

Mr. O'HARA. And how many subsequent committees or Emergency Boards have passed upon this question since that time?

Mr. JEWELL. The special Advisory Board appointed October 16 held 1 day's hearings on October 28.

The CHAIRMAN. Do you know, Mr. Jewell, whether the railroads have made an estimate of the difference in cost?

Mr. JEWELL. I do not know what their estimate is, if they have made one, sir.

STATEMENT OF J. CARTER FORT, REPRESENTING THE ASSOCIATION OF AMERICAN RAILROADS

Mr. FORT. They did, Mr. Chairman, and it was approximately the same as Mr. Jewell has given.

The CHAIRMAN. Will you repeat that, Mr. Fort?

Mr. FORT. The railroads did make an estimate and it was approximately the same as Mr. Jewell has given.

STATEMENT OF B. M. JEWELL—Resumed

Mr. PRIEST. Mr. Chairman.

The CHAIRMAN. Mr. Priest.

Mr. PRIEST. Mr. Jewell, there has been quite a bit of discussion as to whether or not this 8-cent agreement breaks the Little Steel formula and whether or not the plan worked out by Judge Vinson, or others under his direction and in conformity with his formula fits into it.

I am rather convinced after studying it somewhat that the total over-all of the 8 cent increase does not in an over-all way break the Little Steel formula, but I am asking here whether or not you know whether any one group of employees uuder the 8 cent agreement would receive an increase beyond the Little Steel formula for that particular group.

Mr. JEWELL. I think first I ought to say, Congressman, that this group of 15 organizations representing the 1,100,000 employees, and in their national movements, have asked for uniform increases for all of the employees involved in each and every instance and we have received uniform increases except where the question of minimum rates was involved and those lower paid workers got more, because we were trying to fix a reasonable minimum rate. So that when we presented this case to the original Emergency Board, the Railway Labor Act Emergency Board hearings held March 1 to May 7, there we showed that we had gotten for the whole group, as between the last case handled, we had gotten out of that case an increase of 10 cents an hour. That was, related to an average hourly rate of earnings for all, of 63 cents.

So, we had got more than 15 percent for some, but just a little less for all, to be exact.

The Board itself in reporting said that we had received an increase of approximately 15 percent and therefore they were making no recommendation; they were not supporting their recommended increases in any part, upon the Little Steel formula.

The CHAIRMAN. Was the uniform increase that you had requested based upon a percentage or upon an amount of money?

Mr. JEWELL. Amount of money. We asked for uniform increases of 20 cents an hour.

Mr. HALLECK. Mr. Chairman.

The CHAIRMAN. Mr. Halleck.

Mr. HALLECK. Do I understand from what you have just said that it is your position that insofar as the Little Steel formula may be definite and specific, this 8-cent increase is beyond that?

Mr. JEWELL. It is not proposed on that basis; it is not supported by the original Emergency Board on that basis; it is supported solely on the basis of the gross inequities and as an aid in the prosecution of

the war. They said themselves in their report of May 24, that was the basis for their recommendations.

Mr. O'HARA. Mr. Chairman.

The CHAIRMAN. Mr. O'Hara.

Mr. O'HARA. By "them," you mean whom?

Mr. JEWELL. The Railway Labor Act Emergency Board.

Mr. HALLECK. But, you have had increases that closely approach the 15 percent?

Mr. JEWELL. We might argue otherwise. We might prove otherwise, Mr. Congressman, but we have not sought to do that during these proceedings.

Mr. HALLECK. I am not quarreling with you about it; I am inquiring.

Mr. JEWELL. That is right.

Mr. HALLECK. And I just wanted to know what your position in that regard was.

Mr. JEWELL. We have not sought or claimed the increases under the Little Steel formula and we have not supported any part of our claim under the Little Steel formula.

Mr. BULWINKLE. Mr. Chairman.

The CHAIRMAN. Major Bulwinkle.

Mr. BULWINKLE. Let me ask if you had had, Mr. Jewell—I am not clear in my mind whether you had—had you up to the time, if you recognized the Little Steel formula, have you received increases of approximately that amount?

Mr. JEWELL. Yes; we have received substantially a 15-percent increase since January 1, 1941, based upon the way that most people discuss the Little Steel formula application, but as I pointed out yesterday, in the industry where the Little Steel formula was developed, their wages since January 1, 1941, have been increased; they have gotten 30 cents an hour increase as applied to the average hourly earnings of all of the employees in the steel industry, whereas we have gotten for that period 10 cents.

Mr. MYERS. Mr. Chairman.

The CHAIRMAN. Mr. Myers.

Mr. JEWELL. If I may proceed. You see, what I want to explain is this, Mr. Chairman, if I may, we have had our wages increased on a national basis.

Mr. BULWINKLE. What then, Mr. Jewell, is the percentage increase of the steel workers?

Mr. JEWELL. Well, I do not know that I can tell you now. Thirty-one percent, I think. I really cannot tell you the exact figures.

Mr. MYERS. It is my understanding of your position and the Board's position that the Little Steel formula does not apply in this case, but is based upon inequities which existed at the time that the Little Steel formula was adopted.

Mr. JEWELL. That is right.

Mr. MYERS. And, therefore, it is your position that these gross inequities existed so far as your employees are concerned, at that time, and therefore the 15-percent increase as applied in the Little Steel formula, does not apply in this case.

Mr. JEWELL. That is right; that the Stabilization Act of October 2, 1942, required the correction of proven gross inequities.

Mr. MYERS. Even if they go beyond 15 percent.

Mr. JEWELL. Yes, sir.

Mr. BECKWORTH. It seems to me, Mr. Chairman, if you will permit me, what you emphasize is the fact that it does not make so much difference what the percentage increase is, as it does as to how many cents per hour the increase is.

Mr. JEWELL. Well, the percentage increase would be destructive of the relations, of the wage rate relations that have been established in the industry throughout the years.

Mr. BECKWORTH. And there is a lot of difference between the 8 percent and the percentage increases suggested.

Mr. JEWELL. Yes, sir; therefore, we do not agree to it.

Mr. BECKWORTH. There is a lot of difference between 8 cents and 30 percent, irrespective of how it is applied, so far as the percentages are concerned.

Mr. JEWELL. Yes; there are 400,000 of these employees whom the original Emergency Board said had not gotten all of the Little Steel; but we did not claim that for them. It was not based on that. That would have torn our whole wage structure to pieces. We have relied on the gross inequities, because of the requirement of the provision of the law, in getting what would be acceptable and reasonable and fair, a fair increase in wages, and that would not destroy the work of several years negotiations.

Mr. HALLECK. Mr. Chairman.

The CHAIRMAN. Mr. Halleck.

Mr. HALLECK. I do not know whether this is the place to ask it or not; but what I would like to know is this: Is the situation for which you are contending any different from the situation that might confront the Congress if any other group of workers, having been refused an increase by the War Labor Board, should petition the Congress for direct legislation to bring about such increases?

Mr. JEWELL. I think, outside of the railway industry, it is a great deal different.

Mr. HALLECK. That is, it presents a different question from that which might be presented to Congress if say, the steel workers, having petitioned the War Labor Board for an increase and having been denied that increase, would then present their petition to Congress for direct legislation.

Mr. JEWELL. I think the Congress has committed the fixation of wages in other than the railroad industry, to the War Labor Board, to a Board set up under that act, and by an act of Congress, the so-called Smith-Connally Act, have empowered the War Labor Board to decide it as to other industries.

Mr. HALLECK. Now, as I understand the Smith-Connally Act, there is a specific exemption of the Railway Labor Act.

Mr. JEWELL. Of the industry covered by the Railway Labor Act; yes, sir.

Mr. HALLECK. Is that exemption found in any of the price-control laws?

Mr. JEWELL. That act, the second act, October 2, 1942, provides that the President may change certain sections of the previous Price Control Act, but may not change any other law or parts of any law.

Mr. HALLECK. It does not specifically refer to the Railway Labor Act?

Mr. JEWELL. It does not refer to the Railway Labor Act, but certainly does include the Railway Labor Act in that provision which is to the effect that he cannot change any other laws.

Mr. PRIEST. Will the gentleman yield?

Mr. HALLECK. Just one further question.

Mr. PRIEST. Excuse me.

Mr. HALLECK. Possibly you are going to get to it in your statement. But this suggested act here, leaving out the whereases, which after all are not the meat of the coconut, as I get it, undertakes to make the Railway Labor Act effective as against subsequent acts of the Congress which are now the law. Is that, in a word, what is seeks to do?

Mr. JEWELL. I do not know that I clearly understand the implication of your question. The language seems to me says that the agreement of August 7, 1943, first is made in accordance with and therefore is in accordance with the requirements of the Railway Labor Acts.

Mr. HALLECK. Now, why do we have to find that? Is it not, as a matter of law and fact, in compliance with the requirements of the Railway Labor Act?

Mr. JEWELL. We think it is; but there has been some question about it, and it seems necessary for the Congress to say that it is.

Mr. HALLECK. Who challenged that, Mr. Jewell?

Mr. JEWELL. Judge Vinson.

Mr. HALLECK. Has challenged the processes, the action taken as not complying with the Railway Labor Act?

Mr. JEWELL. Challenged the agreement; certainly thrown a cloud over it, by his approval of the sliding scale increase, on November 8, which was reported by that special Board on November 4, and certainly by being unwilling to approve the agreement from the date it was made until now.

Mr. HALLECK. I recognize that. He has disapproved it.

Mr. JEWELL. Yes, sir.

Mr. HALLECK. But is that because the decision arrived at was not in compliance with the Railway Labor Act or is it because he alleges that other acts of the Congress, which are now the law, vests him with sort of superauthority which in effect neutralizes or destroys the effectiveness of action arrived at as a result of the provisions of the Railway Labor Act and in compliance therewith.

Mr. JEWELL. Well, I can only answer you on the basis of what I have seen that he has written. I have seen his written statement of June 30, and his written statement to the Senate committee of November 16. I think, however——

Mr. HALLECK. I think that is a matter of some consequence. This is all new to me, except that I have seen it in the papers; but you think then that we would be faced with a much different situation if it could be said that what we are in effect doing is stepping in and raising wages of one group after we had enacted a general price control and Wage Stabilization Act that called for stabilization of all prices and wages and farm prices too; and, as I have read this language, and as I have listened to your explanation of it, and as I have read of it in the papers, it has seemed to me that it presents something of a different situation from that which you run into if you just had a matter of a petition by one group of workers who would seek to have the Congress superimpose its judgment on that of the administrative agencies

charged under the general law with the making of the decisions; and I, for one, would like to have that clarified. I do not know whether it is of any interest to the rest of the committee or not. If it is not, why, I shall not press it.

Mr. PRIEST. Mr. Chairman.

The CHAIRMAN. Mr. Priest.

Mr. PRIEST. I agree with Mr. Halleck, and that was a question I was about to ask just a moment ago, along that line, For example here, we have set up the War Labor Board now by legislation. It is a creature of the Congress and it handles all other wage disputes.

Mr. Halleck referred to the possibility of the steel workers asking for an increase, where the War Labor Board, let us assume, passed on it; and let us assume that they asked for such an increase and the War Labor Board approved it and it then goes into Judge Vinson's office and he disapproves of it as Economic Stabilizer. That would be a parallel situation, in a sense, to what we have here.

There is a board created under authority of the Railway Labor Act to handle railway labor disputes and settle them. It, acting under the law, reaches a decision which in turn is vetoed by the Economic Stabilizer.

Now, I think we do have there what might be a parallel situation, if some group received an approval of the War Labor Board for an increase and that was vetoed, they would have the same rights, in other words, to come to the Congress under the procedure set up in this case as we have in the present case. I think it is pretty important that we clarify that point as to whether Judge Vinson, as Mr. Halleck pointed out, challenged the procedure under the act or whether he simply is acting under these additional powers which were conferred on him in Executive orders and so forth, and decided that it did not fit in with the stabilization program enacted by Congress, and vetoed it on that basis.

I think it is pretty important, Mr. Halleck, and I am awfully glad that you brought it up.

Mr. HALLECK. And if I might supplement what you said, are you quite sure, Mr. Jewell, you and your associates, that if this should become the law, that the 8-cent raise would then become mandatory?

Mr. JEWELL. The carriers will answer that question, I think, Mr. Congressman, when they appear.

I would like to answer the other part of the question if I may.

Mr. HALLECK. I practiced law long enough to know that the construction of statutes is one of the most difficult jobs that ever confronts a lawyer.

The thing running through my mind is whether or not—having a congressional declaration that what was done here between the carriers and their employees was in compliance with the Railway Labor Act, which is what this seems to be—whether or not, over and beyond that, it might then be asserted that there is a subsequent action of the Congress implemented by Executive orders; decisions made by the executive and administrative branch of the Government, which yet would preclude the granting of the 8-cent increase.

Mr. JEWELL. Well, the parties to the agreement, Mr. Congressman, have agreed that if this legislation is enacted, that they will put it into operation and the increases will be paid.

95000—44——4

On the other question, I think you have got a very definite situation here and that the two are not analogous, not exactly comparable.

First, under the Smith-Conley Act, as I understand it—as we understand it—the War Labor Board is given the power to decide what increases shall be granted to the workers in other than the railroad industry; others than the industries covered by the Railway Labor Act.

Judge Vinson has no right of review there except where price increases are required.

If I understand the law correctly, those are the only types of cases he reviews.

Here you have the Railway Labor Act and no agency is given the power to make a decision as to what the rates of pay shall be. The law requires the making and maintaining of agreements, and the settlement of disputes by agreement. The law provides various Government agencies such as the National Mediation Board, and also provides for these Emergency Boards created under section 10, to aid parties in reaching an agreement.

By Executive order the President, in Executive Order 9299 issued February 4, 1943, has provided that these Emergency Boards created under section 10 of the Railway Labor Act, must take notice of and be governed by the stabilization policies of the country, and must certify in their recommendations to him that the recommendations they make for settling the disputes are in conformity with the stabilization policies as enacted by Congress.

Mr. HALLECK. As any thought——

Mr. JEWELL. Just a moment if I may.

Mr. HALLECK. Pardon me.

Mr. JEWELL. In that same Executive order the President provided that Judge Vinson, in behalf of his agency and other named agencies, in that order, may report to the President within a period of 30 days after the report is filed with him, report of the Emergency Board is filed with him, whether or not the recommendation of the Emergency Board is in conformity with the stabilization policy. But, that Board, up to that point, there is no authority given in any law or Executive order for the decision which Judge Vinson has made.

Mr. HALLECK. Now, that leads me to the question, I want to ask at this moment, Have you and your associates in the labor organizations, or the carriers, given any thought to the challenging in the courts of the authority asserted by Judge Vinson as Economic Stabilizer?

Mr. JEWELL. We have retained what we regard as two very good, almost the best, lawyers, certainly the best lawyers we know of in this field, Mr. Frank L. Mulholland, who handled this case all the way through from its beginning, and we have retained Mr. Donald R. Richberg, and, between the two of them, we have not been able to get advice as to how we could proceed in court and secure a remedy for the problem which confronts us.

Mr. Richberg made an extended argument before this special Advisroy Board on October 28 on that question. He made a further extensive argument before the Senate committee on that and other legal questions involved, and both of those arguments are reproduced in the Senate record.

Mr. HALLECK. Those men are eminent lawyers, and I suspect, if the way were there, they could find it.

It does strike me that if the situation is as you present it, then it might well be questioned whether or not Judge Vinson has the authority to delay or prevent the operation of this agreement entered into between the employers and the employees. Of course, I do not know whether the employers want to take a chance of going ahead and paying your men in the face of the Vinson order or not; but maybe they would not want to do that; but that certainly would be one way.

Mr. NEWSOME. Is not that the only issue in the case, whether or not Judge Vinson has the authority to set aside a finding of the Railway Labor Board; is not that the only issue involved?

Mr. HINSHAW. Mr. Chairman.

The CHAIRMAN. Mr. Hinshaw.

Mr. HINSHAW. At that point, I think we ought to refer to the Executive order setting up the division of the Treasury Department which has to do with the handling of increases in wages and, as I remember that Executive order, if any employer pays wages which are in violation of the regulations, the entire amount of wages may be deducted from his expenses in figuring his income.

Now, I may or may not be correct in that, but I believe that is right, and I believe that is a successful bar against the carriers actually paying the wages.

Mr. PRIEST. I think so.

Mr. HALLECK. Of course, that Executive order exists, and I have constantly asserted there is no legal authority for it. Somebody will challenge that some day, and it will be so established, but it is there as of today.

Mr. PRIEST. Will the gentleman yield?

Mr. HALLECK. Yes.

Mr. PRIEST. Is there not authority for it in the Second War Powers Act? That is in connection with that last question also. A great many hold that there is authority for it in the Second War Powers Act, which was passed by Congress.

Mr. HALLECK. I do not think that it is there.

Mr. O'HARA. Mr. Chairman.

The CHAIRMAN. Mr. O'Hara.

Mr. O'HARA. You made some reference to the Smith-Connally bill in connection with this situation which confronts the railroad industry at this time, and I wish you would, if you would, tell me in what way that does affect this situation. You made some reference to it.

Mr. JEWELL. My recollection of what I said is this, that the Smith-Connally Act excluded——

Mr. O'HARA. I have been trying to get a copy of the act and have not been able to do so.

Mr. JEWELL. Excluded the railway industry from the jurisdiction of the War Labor Board in that section which conveys jurisdiction upon the War Labor Board for all other industries, except that industry covered by the Railway Labor Act.

There are two provisions in it. If I can get it, I will read it. Section 7, paragraph 4 (e) reads—

The Board—

Meaning the War Labor Board—

shall not have any powers under this section with respect to any matters within the purview of the Railway Labor Act, as amended.

Mr. O'HARA. What was the date of the passage of that act with reference to Judge Vinson's order? Was it prior to or subsequent to Judge Vinson's order?

Mr. JEWELL. It was passed over the President's veto. He vetoed it on June 25. My recollection is that it was passed the next day, or that day.

Mr. O'HARA. The same day it was vetoed.

Mr. PRIEST. The same day.

Mr. JEWELL. The same day. Then, there is another section, section 2, paragraph (c), defining the term "war contractor," and after defining war contractor says:

> But shall not include a carrier as defined as in title I of the Railway Labor Act or a carrier by air subject to title II of such act.

Mr. O'HARA. Now, sir, can you tell me what was the date of Judge Vinson's order overruling the Railway Labor Board on this matter?

Mr. JEWELL. His first order was June 22; his second order was June 30.

Mr. PRIEST. Mr. Chairman, may I ask one question?

The CHAIRMAN. Mr. PRIEST.

Mr. JEWELL. May I just say something, Mr. Chairman.

Mr. PRIEST. Yes.

Mr. JEWELL. I think I had better not volunteer too much legal advice to you gentlemen, because I may get myself clear out over my head and secondly, the carriers are going to appear here through their attorneys, and most of or many of these questions are directed to whether they regard this legislation, I should think, as enabling them to make our agreement operative and I can only volunteer the statement that they have said they do. What they will say this morning, I do not know.

Mr. MYERS. The question propounded by Mr. Priest, I think, is a very good question. The answer is, I think, as you gave it in effect, if any other group came in objecting to a decision of Judge Vinson, that they would only be objecting to his judgment because he has full power under the law to act in any other case but in this case you claim, and you contend, that he has no power under the law to act, unless there is an increase in prices involved.

Mr. JEWELL. Yes, sir.

Mr. MYERS. Therefore, it is not a matter of judgment. You come to Congress because you say he acted without any authority whatever.

Mr. JEWELL. I think that is correct.

Mr. MYERS. And Judge Vinson comes back and says that may be true, so far as the Railroad Labor Act is concerned, but he derives his authority from the War Powers Act. Is not that the situation? I understood you to say in your testimony yesterday that Judge Vinson had indicated that he believed that his authority came from the War Powers Act rather than from the Stabilization Act or from the Railway Labor Act.

Mr. JEWELL. I think what I said was this, that in the Executive order of October 16, issued by the President creating the special advisory board, the President stated he issued that order under the authority of the First War Powers Act as Commander in Chief and President, and made no reference to the Railway Labor Act or the Stabilization Act.

Mr. MYERS. You do not believe any action of this Congress on this subject would be a precedent for any other organization?

Mr. JEWELL. I do not; and I think those of you gentlemen who are bothered about that question, you might be interested in a discussion between, I think, Senator Austin and Senator Reed.

There is an article in this morning's Washington Post, that is certainly directed to that question. If I may, I would like to insert it in the record, Mr. Chairman. It is by Merle Pusey, in this morning's Washington Post. It is the best statement that I have seen.

The CHAIRMAN. Very well.

Mr. JEWELL. It is a much better statement than I can make.

Mr. WOLVERTON. Mr. Chairman, I think that should be made a part of the record. I read it, and I was very much impressed with the logical manner in which it was handled.

Mr. JEWELL. I will read it, Mr. Chairman, with your permission.

The CHAIRMAN. Very well, if you will read it.

Mr. JEWELL. It is entitled:

STROKE FOR DEMOCRATIC PROCESSES

A great deal on nonsense has been written about the Senate breaching the anti-inflation line and upsetting Stabilization Director Vinson's apple cart by its vote on the railway wage resolution the other day. Actually the Senate didn't vote for inflation. It didn't take back authority previously granted to Mr. Vinson. It didn't take over the job of adjusting wage disputes. Nor did it surrender to the demands of strikers threatening to sabotage the war effort, as did the President and Secretary Ickes in dealing with John L. Lewis.

What the Senate did, by the overwhelming vote of 74 to 4, was to uphold an agreement that had been made in full accord with the terms of the law. If that is a rebuke to Mr. Vinson, it rebukes him only for attempting to use powers that Congress had denied him. When Congress passed the Stabilization Act of 1942, it authorized the President to suspend certain provisions of the Price Control Act. Then it added this stern prohibition: " * * * but he may not, under the authority of this act suspend any other law or part thereof."

In two different Executive orders concerning the adjustment of wage disputes the President recognized the intent of Congress thus expressed to keep the railway labor law intact. Then suddenly he presumed to set that act aside and settle the dispute between the railroads and their nonoperating employees in his own way. Now the only authority that he or Mr. Vinson could draw upon to take such drastic step was that given them in the Stabilization Act. And that act specifically forbade suspension of any law other than certain provisions of the Price Control Act.

It was this situation that confronted the Senate. What the Senate has now said in effect is, "When we say not suspend an act of Congress by Executive decrees, we mean it."

Congress might be asked to refrain temporarily from even this mild assertion of its rights in the making of our national policy if the result would be disastrous inflation. But the indisputable fact is that the Vinson formula would be almost as inflationary as the legal settlement which the railroads and their employees favor. The first would add 167 million dollars to pay envelopes; the second, 185 million. That is a rather trifling difference on which to justify Executive violation of the law.

Nor can it reasonably be said that the Senate has created a precedent for congressional adjudication of wage disputes. Congress assigned the job of stabilizing all wages outside the railroad industry to the President operating through the War Labor Board and Stabilization Director Vinson. Obviously employees not affected by the Railway Labor Act would have no case to carry to Congress.

There is a good reason, moreover, for this distinction between railway workers and others. Machinery for settlement of wage disputes between the railroads and their employees has been in operation since 1926. It can be and has been used to stabilize railroad wages. There was no means of stabilizing wages in other fields until the Emergency Act was passed. It is elementary good sense to leave permanent machinery undisturbed, if possible, when setting up temporary controls to meet an emergency.

The outcry against this Senate vote for law and order is profoundly disturbing for a number of reasons. It reflects a dangerous tendency on the part of many commentators to assume that our gigantic bureaucracy is right no matter what it does. It reveals a disposition to carp at Congress no matter how reasonable the action taken. And it suggests a frightening acquiescence in the scuttling of democratic processes to meet an emergency, even though the issue may be, as was the cry of inflation in this case, a phony.

If Congress had as many publicity agents as the downtown bureaus have, one of them might venture to make the point that democratic methods of government, as well as the value of the dollar, are worth saving.

Mr. HINSHAW. Mr. Chairman.

The CHAIRMAN. Mr. Hinshaw.

Mr. HINSHAW. I believe that the article that has just been read is quite true. I read it myself this morning. I believe that as a matter of fact the Congress is now being called upon to act as a court in advance of any Supreme Court action, and it is probably doubtful as to whether or not such a case could be brought to the Supreme Court under the various ramifications of law and Executive orders.

In my opinion there is considerable doubt as to whether this case could be brought to the Supreme Court, and if it were so brought it might be a year or 2 years from now, rather than immediately. As a matter of fact, I should like to call to the attention of the members of the committee a condition of which I am aware. Originally, about 3 years ago the aircraft industry in the area which I represent had a minimum wage, a starting wage, of 40 cents per hour. When the first contracts for the construction of some 800 bombers were placed, it was found necessary to increase the minimum starting wage to 50 cents an hour. In due course, through negotiations between the representatives of labor and management the starting wage was raised to 60 cents an hour, where it now stands; and after a 90-day period of probation the worker may receive 70 cents an hour.

It is my understanding that the starting wage of the nonoperating railway employees in that same area is in the neighborhood of 40 cents an hour.

Mr. JEWELL. Forty-six cents.

Mr. HINSHAW. Forty-six cents an hour. I stand corrected. The net result has been, according to a survey made by, I believe an agency quasi governmental and connected with the War Manpower Commission, that it has been found that the largest deficiency of labor available for employment in that area exists in the railway labor field that there are some fifty-odd-thousand employees needed in that field, whereas in other fields directly connected with the manufacture of war materials and where the starting wages are considerably higher, that the deficiency is very small.

Everyone knows that it is all well and good to provide war materials, but if they be not moved to the points where they are needed and efficiently moved to those points, then the manufacture of them will be to little avail.

Consequently, in order to relieve that shortage, it is necessary to provide a starting wage in the railway field that will attract sufficient workers so that the material can be moved to the points where it is needed.

Therefore, regardless of any law in the matter, it seems to me a question of correcting a gross inequity and one which must be adequately considered and should have been considered by the Director of Stabilization, if he had the power, in the first place.

The CHAIRMAN. You may proceed, Mr. Jewell.

Mr. JEWELL. I think I just might add, Mr. Hinshaw, the War Labor Board has increased that wage recently to 82 cents, the rate you speak of.

Mr. HINSHAW. It has?

Mr. JEWELL. Yes.

Mr. HINSHAW. And they start now at 72 cents?

Mr. JEWELL. Eighty-two cents.

Mr. PRIEST. Mr. Chairman, may I ask a question?

The CHAIRMAN. Mr. Priest.

Mr. PRIEST. Suppose that Judge Vinson had not approved that increase, would these aircraft workers have the same right, under the law, to come and ask that it be approved by the Congress? They agreed to that and the War Labor Board approved it and Judge Vinson approved it, but suppose he had not approved it, then would they have had the right to come to Congress?

Mr. JEWELL. I do not know whether I can duck it or not. I only want to duck it, because I am an officer of a labor organization and I do not like to say anything against my brothers; but I will have to answer your question by saying I do not think so. I do not think so.

Mr. PRIEST. That, to me, is a very important phase of this whole discussion; whether they would have had the right, if Judge Vinson had not approved that increase, to accomplish the same results, would legislation such as this be in order?

Mr. JEWELL. I will answer this way: If we, the railroad workers, were operating under that machinery which you set up, the War Labor Board, I do not think we would have a case to come here with.

Mr. HARRIS. Of course, Mr. Chairman——

The CHAIRMAN. Mr. Harris——

Mr. HARRIS. If I may be permitted, Mr. Chairman, I think they would have the right to come to Congress. After all, these acts are conferred upon the President, the Executive, these powers by Congress, and certainly they have the right at any time to come to Congress for the consideration of adjusting or amending any laws which this Congress has passed.

Mr. JEWELL. I think that is true. I would have to put my answer in this way.

Mr. O'HARA. The right to petition cannot be denied.

Mr. JEWELL. I do not think we could have made a case.

Mr. PRIEST. I had that in mind. Of course, I recognize the fundamental right to come here at all times, but would they have the same legs to stand on, so far as making a case is concerned? That is what I had in mind.

Mr. JEWELL. I do not think so. That shows how little I know about law, sir.

The CHAIRMAN. You may proceed, Mr. Jewell.

Mr. JEWELL. Judge Vinson announced he would not disapprove this special advisory board's recommendations on November 8. That happened to be the same date the hearings were being held before the Senate committee; the morning they started. Later that day, the 15 chief executives announced their unwillingness to undertake to amend the agreement of August 7, so as to substitute the sliding scale increases for the uniform increase provided in that agreement.

Following the close of the hearings before the Senate committee on November 9, the Congressional Record now discloses that Senator Barkley himself said he spent considerable time in undertaking to work out some kind of an adjustment of this matter with the executive agencies of the Government and failed. On December 3, the Senate Interstate Commerce Committee unanimously reported Senate Resolution 19, and as we all know, on December 9 it was adopted by the Senate by a vote of 74 to 4.

I do not know, but I think it might be well to just summarize what I have said in a few words, by saying that the dispute originated under the Railway Labor Act by the notice served on September 25, 1942. So far as the handling of that dispute and the making of the agreement of August 7, 1943, is concerned, the Railway Labor Act has been complied with in all steps.

The Railway Labor Act Emergency Board appointed and functioning under section 10 of that act reported to the President on May 24, 1943, and filed a supplemental report on May 29; recommended a uniform increase of 8 cents per hour, effective February 1, 1943. It certified in that report that this 8 cents increase was to correct gross inequities; to aid in the effective prosecution of the war; that no part of the increase was rested upon or was under the Little Steel formula; further certified that the increase would not increase the cost of living; would not increase the charges to the public; it was all in accordance with the Stabilization Act of 1942. The August 7, 1943, agreement that provides for the same amount, that is, 8 cents an hour increase, provides for the same effective date, February 1, 1943; provides also for 54 cents minimum. The agreement was made and the whole dispute was handled strictly in accordance with the Railway Labor Act. The agreement, in our view, is not in conflict with any other law or any part of any other law.

I want to express our appreciation for the interest which this committee has shown and the hope that you will take the matter up and arrange for the prompt passage of Senate Joint Resolution No. 91, with the belief on our part, and as we understand, on the part of the other parties to the agreement, that this will settle our dispute, and we can go on in the railroad industry feeling that this matter has been settled in a way that it should have been settled sometime ago.

The CHAIRMAN. We thank you.

Mr. JEWELL. Gentlemen, we have been here for——

The CHAIRMAN. Pardon me. Go ahead.

Mr. WOLVERTON. Mr. Chairman.

The CHAIRMAN. Mr. Wolverton.

Mr. WOLVERTON. At what point do you think this should have been a settled matter?

Mr. JEWELL. On June 24, 1943, we should have been enabled to and would have, had not Judge Vinson interfered, enter into an agreement with our carriers.

Mr. WOLVERTON. What was the basis on which he entered into the matter.

Mr. JEWELL. He apparently, in his statement of June 30, objects to uniform increases and insists that some graduated scale of increase must be applied.

Mr. WOLVERTON. I meant from what standpoint did he claim jurisdiction?

Mr. JEWELL. I think—the only way I can interpret why he did it or what he based his authority for doing it upon was he did, as I think I said yesterday, he misread the so-called hold-the-line order.

Mr. WOLVERTON. Well, did he give directions that the agreement should not be carried out?

Mr. JEWELL. He said flatly on June 22, the recommendations of the Emergency Board made to the President on May 24, should not become effective.

Mr. WOLVERTON. Was the matter referred to him for a decision or did he have the jurisdiction?

Mr. JEWELL. Well, the President said in Executive Order 9299, issued February 4, 1943, that he should advise the President; should report to the President, his belief as to the effect of the recommendations of such an emergency board on the stabilization program.

Mr. WOLVERTON. On what date was the conference held with the President at which he suggested that the agreement be accepted by the employees?

Mr. JEWELL. May 27; 3 days after the Emergency Board report was filed with the President.

Mr. WOLVERTON. Well then, if the Board filed the report in May and the President indicated his approval of it by advising your organization to accept it, even though it might not be entirely satisfactory to the employees, it is difficult for me to understand how Judge Vinson got into it.

Mr. JEWELL. I do not know how he did.

Mr. PRIEST. Will the gentleman yield?

Mr. BULWINKLE. Will the gentleman yield?

Mr. WOLVERTON. Yes.

Mr. BULWINKLE. I notice in the letter of transmittal to the President, in the report you furnished——

Mr. JEWELL. Yes, sir.

Mr. BULWINKLE. The report to the President by the Emergency Board dated May 24, this Board states in its letter to the President:

> In conformity with the requirements of Executive Order 9299, copies of this report are being filed with the Economic Stabilization Director, the National War Labor Board, and the Commissioner of Internal Revenue.

Mr. PRIEST. Will the gentleman yield further for just one statement?

Mr. WOLVERTON. I do not think filing a report with an individual necessarily gives him jurisdiction in the matter.

Mr. BULWINKLE. Evidently he thought it did in this instance. I am endeavoring to point out just how he assumed jurisdiction under the facts as shown there.

Mr. PRIEST. Will the gentleman yield?

Mr. WOLVERTON. Yes.

Mr. PRIEST. Under Executive Order 9299, if I recall it correctly, this report is filed with the Economic Stabilizer and if within 30 days he has no objection, it may be put into effect; but it may be altered, as I recall it, to the extent that the Director of Economic Stabilization directs. The President may put it into effect within 30 days, except to the extent that the Office of Economic Stabilization may direct otherwise. If I am incorrect there, I would like to be corrected; but I believe that is in the Executive order.

Mr. WOLVERTON. I am not very well pleased with the thought that the President cannot do something unless the Economic Stabilization

Director tells him he can do it. It would seem to me that the position of President of the United States would be entitled to exercise some judgment which the Economic Stabilization Director could not upset.

Mr. PRIEST. But the Executive order conferred that authority, I am quite certain, on the Economic Stabilization Director.

Mr. JEWELL. May I read the section to which the gentleman refers?

Mr. PRIEST. I wish you would. I do not have it before me.

Mr. JEWELL. Section 5 of Executive Order 9299, issued February 4, 1943, reads:

> Copies of the report of the Board created under—

the Railway Labor Act is what he is referring to—

> with recommendations made to the President by the Emergency Board under section 4 of this order shall be filed by the Board forthwith with the Economic Stabilization Director, the National War Labor Board, and the Commissioner of Internal Revenue. The Economic Stabilization Director may on behalf of himself, or other departments and agencies concerned, report to the President the effect of the recommendations on the general stabilization program. Unless and except to the extent that the Economic Stabilization Director shall otherwise direct, the recommendations of the Emergency Board in regard to proposed changes affecting wages and salaries payment, shall upon the expiration of 30 days after the report is filed with the President becomes effective.

Mr. WOLVERTON. Let me ask——

Mr. PRIEST. Unless and except as otherwise directed.

That seems, in a sense, to me, if I may say so, to actually confer a certain amount of jurisdiction there in this case on Judge Vinson or whoever might be the Director of Economic Stabilization and it is not a usurpation of authority or injection of himself into the picture, without any basis whatsoever.

Mr. WOLVERTON. In view of the facts as presented I am not willing to assume that it does confer that jurisdiction upon him.

When Congress passed the different railway labor acts, it did so with the one thought in mind of stabilizing the railroad industry. Time and again, the railway labor acts and that which has taken place under them, has been referred to as a model. We have frequently heard it suggested that there should be similar statutes with reference to labor in general. That is all due to the satisfactory manner in which the Railway Labor Act has been administered and its decisions accepted by the parties concerned.

I think it is as little as Congress can do, or any individual in the Government service could do, is to recognize that fact and when two parties, management and labor, have followed the procedure set down by Congress for the settlement of a dispute and that dispute is settled, to me it is extremely regrettable that any situation changes it that makes it necessary for one of the parties to come before Congress and ask for relief.

Mr. NEWSOME. May I ask a question?

The CHAIRMAN. Mr. Newsome.

Mr. NEWSOME. Mr. Jewell, in recommending the sliding scale award, what was the reason given by Mr. Vinson for substituting that in place of the flat award?

Mr. JEWELL. Why, he based it in his letter of June 30, I think he states that he bases that recommendation on the provision of the April 8 hold-the-line order, wherein substandard rates may be corrected; substandard or cost-of-living wages may be corrected; substandard living wages may be corrected, would be more correct, and

where increases may be given in that connection to correct interrelated job differentials.

Mr. NEWSOME. But, he disregarded completely the relationship between various job classifications that have been established for 40 or 50 years, or over.

Mr. JEWELL. Yes. Judge Vinson never saw the record of this hearing. It was held, a 44-day hearing, that was held by the original Emergency Board, and could have had no basis upon which to determine the effect of such a sliding scale increase in wages upon our whole wage structure. It would lead to interminable controversies and problems, and interference and gross inequities.

Mr. NEWSOME. And the total amount of money under the sliding-scale award, if such a contract were entered into, would not be enough difference in actual money to create any inflationary drift?

Mr. JEWELL. Eighteen million dollars; and as somebody said, $18,000,000 divided between 1,100,000 workers, would not let them get very far in an inflationary campaign.

Mr. NEWSOME. In other words, it was just an arbitrary ruling based upon disregard for established relationships between wages that had been long-established by regular procedure.

Mr. JEWELL. Yes. Certainly it would have caused much more trouble and created more gross inequities, than it would have solved.

Mr. HINSHAW. Mr. Chairman.

The CHAIRMAN. Mr. Hinshaw.

Mr. HINSHAW. In Senate Report 563, report to accompany Senate Joint Resolution 91, there appears a statement from Fred M. Vinson, Economic Stabilization Director, on Senate Joint Resolution No. 91, and the fourth from the last paragraph reads as follows:

> It has been pointed out that these approved wage adjustments result in an additional annual labor pay roll of only $18,000,000, less than a general 8-cent increase. From this it is argued that the stabilization against inflation issue has disappeared from the case. Such a view is, of course, entirely erroneous.
>
> A relatively small consideration is that a general increase of 8 cents for the non-operating employees would probably necessitate upward revision for all of the operating employees.

I would like to ask Mr. Jewell for his view on that statement.

Mr. JEWELL. I do not believe I am competent to answer, sir.

Mr. HINSHAW. Particularly in regard to the statement that it would require or would "probably necessitate upward revision for all of the operating employees."

Mr. JEWELL. I do not know enough about their case, sir, to have any worth-while opinion, I am sure.

Mr. HINSHAW. And a couple of paragraphs later he says:

> The pressure exerted by an organized labor group to break the Little Steel formula may be a new experience for Congress—but not for those who have been doing battle with inflation—

and so forth.

The CHAIRMAN. Have you finished, Mr. Jewell?

Mr. JEWELL. Yes; Mr. Chairman.

Mr. PRIEST. Mr. Chairman.

The CHAIRMAN. Mr. Priest.

Mr. PRIEST. Mr. Jewell, I have asked a number of questions here. Perhaps you might have gathered, or other gentlemen might have gathered, that I am opposed to the 8-cent increase, as a result of some of the questions I have asked.

I do not believe that the 8-cent increase is in itself inflationary and I think that the employees deserve such an increase. I have two large railroad shops in my district. Many of my close friends work in them. In fact my own brother-in-law has been a machinist in the Nashville, Chattanooga & St. Louis Railroad new shops for 27 years.

I am not opposed to that, but I took my stand nearly 2 years ago against inflation and I just come to the question of procedure here in asking you this one question for the record at this point.

In your opinion, if this bill is passed, will it in any sense weaken our efforts to hold the line?

Mr. JEWELL. I think not. I think it will strengthen it. I do not see how a democratic government can exist and freeze inequities; refuse to correct them.

Mr. PRIEST. That is all, Mr. Chairman.

Mr. JEWELL. Thank you.

Mr. HALLECK. Mr. Chairman.

The CHAIRMAN. Mr. Halleck.

Mr. HALLECK. Mr. Chairman, I address the committee, because I do not know what has been arranged here as to witnesses; but I am wondering whether or not the attorney or attorneys who drafted this proposal are going to appear to explain it.

Mr. JEWELL. We intend to have no one from our side but myself. The carriers have attorneys. I think maybe the carriers might answer the question. They are good lawyers. I am not.

Mr. BULWINKLE. Mr. Chairman.

The CHAIRMAN. Major Bulwinkle.

Mr. BULWINKLE. Mr. Jewell, I do not know whether it is in the record or not, but in all these lower paid workers, section hands, right-of-way men, maintenance-of-way men, what are their average wages?

Mr. JEWELL. Well, the minimum in the industry is 46 cents. I do not believe I can state the average wage.

Mr. BULWINKLE. What is the maximum?

Mr. JEWELL. About 52 or 52½. I think I might say 52 or 52½ is the average and the maximum is probably 55 or 56. You are talking about the section men now?

Mr. BULWINKLE. Yes, the section men.

Mr. JEWELL. Yes, sir.

Mr. BULWINKLE. Have they had any raise in any recent number of years?

Mr. JEWELL. Their last increase was in 1941, December.

Mr. BULWINKLE. What was their wage then?

Mr. JEWELL. They were raised then 10 cents.

Mr. BULWINKLE. So that the man who is now getting 46 cents, was getting 36 cents prior to that?

Mr. JEWELL. They were getting 36 cents; yes, sir.

Mr. BULWINKLE. Thank you.

The CHAIRMAN. We thank you, Mr. Jewell.

Mr. MYERS. May I ask one question?

Mr. WINTER. I want to ask a question, Mr. Chairman. What is the difference between the 8 cents and the sliding scale of 4 to 10 cents in amount of money that will be involved?

Mr. JEWELL. $18,000,000 a year.

Mr. WINTER. Now, another question. You have made a very good presentation of this matter, to my mind, and I am very sympathetic to your views in this settlement, but there is one thing that is bothering me. I have been told—I do not know whether there is any truth in it or not—I have been told that you gentlemen are operating on a 48-hour workweek, are you not?

Mr. JEWELL. Yes, sir.

Mr. WINTER. I have been told that if Congress enacts this legislation that you have some agreement with some one, some place, some where, some of the governmental agencies, or some Government men, that your next move will then be to come to Congress for legislation reducing the 48-hour week to a 40-hour week and then thereby get an additional raise of 7½ or 8 cents an hour in addition to this raise.

Now, do you have such an agreement as that, or have you discussed that?

Mr. JEWELL. I have stated what the situation is in that regard and I can repeat it in just a moment, I think, if you desire it.

We pointed out to the President that by Executive orders which he had issued, there was discrimination against this industry and that these men differed from everybody else in that everyone else was getting time and one-half after 40 hours work per week during the war period when we were only getting time and one-half after 48 hours, under our agreement, and some of our men were working 60 hours, before they get time and one-half; 10 hours a day, 6 days a week.

Mr. WINTER. I know of some of those.

Mr. JEWELL. And he said he would undertake to help us correct that after we had settled this wage question. The last word we had on that was that at some time after we had settled this wage question he would be willing to send a message to Congress suggesting a change in that situation by act of Congress.

Mr. WINTER. That is all.

The CHAIRMAN. Thank you, Mr. Jewell.

Mr. JEWELL. Thank you, Mr. Chairman.

STATEMENT OF R. V. FLETCHER, VICE PRESIDENT OF THE ASSOCIATION OF AMERICAN RAILROADS, WASHINGTON, D. C.

The CHAIRMAN. Mr. Fletcher.

Mr. FLETCHER. Mr. Chairman and gentlemen of the committee, my name is R. V. Fletcher. I am vice president of the Association of American Railroads. I rise only to explain, Mr. Chairman, that under the organization of the Association of American Railroads, to which belong substantially all of the class I railroads of the country, wage controversies, as such, as has given rise to this proposed legislation are not within the jurisdiction of the association.

We are not handling wage controversies as such. Such controversies, so far as the carriers are concerned, are ordinarily handled regionally by appropriate committees which are organized in the East, and West, and in the South, and this particular controversy was handled in that way.

So there was a committee of counsel representing the East and West and South and it handled this case before the President's panel and generally throughout the course, and the chairman of that committee of counsel is Mr. Jacob Aronson, who is vice president in charge of the

law department of the New York Central Railroad. He is much more competent than I am to discuss the matter, and he speaks with authority, for the railroads of the country, because he represents the organizations which those railroads have set up for the handling of wage controversies, and I would like to ask, Mr. Chairman, if you will permit Mr. Aronson to speak for the railroad industry in this matter.

The CHAIRMAN. Very well. Mr. Aronson.

STATEMENT OF JACOB ARONSON, VICE PRESIDENT, NEW YORK CENTRAL SYSTEM, AND CHIEF COUNSEL FOR CARRIERS' CONFERENCE COMMITTEES

Mr. ARONSON. Mr. Chairman and gentlemen of the committee, I have in mind first to make a very brief statement and then, as best I know how, to answer any questions that the gentlemen of the committee may ask of me.

My name is Jacob Aronson. I am vice president of the New York Central Railroad and have been and still am acting as counsel for the Eastern, Western, and Southeastern Carriers' Conference Committees which represent the carriers employing approximately 95 percent of the railroad employees of the country.

On August 7 these 3 Carriers' Conference Committees concluded an agreement with the brotherhoods providing for an 8-cent-per-hour increase in basic wage rates, retroactive to February 1, 1943, but providing, as we have felt was necessary, that it was subject to existing requirements of law. This agreement covered nonoperating railroad employees, numbering approximately 1,100,000.

On October 28 I submitted to the President's Special Emergency Board, which was appointed by Executive order, dated October 16, 1943, our detailed reasons for believing that that agreement of August 7 was justified and within the limitations of the stabilization policy, as that policy has been administered. No necessary purpose would be served by going into those matters at this time.

The pending resolution grows out of a controversy between the organizations and a department of Government, and I am sure that you will appreciate why we refrain and should refrain from injecting ourselves into that dispute. However, this much may be said concerning our position, and it is assumed that it will serve the purposes of the committee to the extent that our position is of interest to the committee.

We made the agreement of August 7 in the utmost of good faith and ever since the making of that agreement, in equal good faith, we have been and now are prepared to put it into operation, if and when it becomes legally permissible to do so. Whether that permission should come from administrative approval or the enactment of this resolution is not for us to say.

The enactment of this resolution would produce a solution and in that event there would remain no impediment to the performance of the agreement of August 7 and we would thereupon proceed to put it into operation.

Mr. Chairman and gentlemen of the committee, that concludes the very brief statement that I had in mind to make.

I should like to have a copy of the statement that I made before the Special Emergency Board on October 28, to which I have already referred, copied into the transcript as a part of my testimony.

The CHAIRMAN. Very well.

(The statement referred to is as follows:)

EXCERPT FROM STATEMENT OF JACOB ARONSON, VICE PRESIDENT, NEW YORK CENTRAL SYSTEM, AND CHIEF COUNSEL, CARRIERS' CONFERENCE COMMITTEES, BEFORE SPECIAL EMERGENCY BOARD (ELWYN R. SHAW, RICHARD F. MITCHELL, AND WALTER C. CLEPHANE), AT WASHINGTON, D. C., OCTOBER 28, 1943

The position of the carriers represented by the three regional conference committees is altogether clear. On August 7 these carriers and the 15 cooperating railroad labor organizations reached an agreement for a uniform increase in wage rates of 8 cents per hour for all so-called nonoperating employees. The performance of that agreement is necessarily subject to existing requirements of law, and a provision to that effect was contained in the written document.

The carriers made that agreement in good faith and are now urging its approval at the hands of Government in equal good faith. We think that the reasons which motivated the carriers to sign that agreement are such as to bring it into conformity with the stabilization program and the memorandum of Judge Vinson of June 30 in which he dealt with the earlier report of the Sharfman Emergency Board.

We recognize that the reasons which motivated our concurrence in the wage agreement are not accepted by the organizations as their motivating considerations, and this circumstance very probably accounts for the failure of the organizations heretofore to secure governmental approval of the agreement, because undoubtedly they have not advanced the carriers' reasons as justification for such approval. This hearing gives us opportunity for formal presentation of our position, and we now avail ourselves of it.

At page 87 of the report of the Sharfman emergency board dated May 29, 1943, there is contained this statement:

"The employees' representatives emphasized the fact that premium payments for overtime in the railroad industry begin as a rule for railroad workers only after 48 hours per week, in contrast to 40 hours in most other industries. If railroad employees were to receive premium payments for time worked above 40 hours per week as provided by the Fair Labor Standards Act and by provisions in most union agreements and were to continue on 48-hour schedules, their average hourly earnings would be increased by 8.33 percent. On the basis of the general average of hourly earnings of the nonoperating groups in 1942, this would be equivalent, on the average, to an increase of about 6 cents per hour. No request came before the board for a change in the existing arrangement for premium payments for overtime. Nevertheless, the contrast between the arrangement in railroad employment and that in other employments is a fact of some significance in its bearing on the comparative wage status of railroad and nonrailroad employees."

Apparently this language in the Sharfman board report was not sufficiently definite and unambiguous to impress itself upon the Stabilization Director as a reason for sustaining the 8-cent recommendation, because Judge Vinson in his memorandum of June 30 stated, as of course was the fact, that "there is no overtime issue in this case." While it is true that no change in the overtime rule was involved, nevertheless the absence of time-and-one-half pay for all hours worked in excess of 40 per week becomes a factor of some significance during a period when work in outside industries in excess of 40 hours per week is required by Executive order and a substantial part of the 8-cent wage increase may be warranted as compensation for or as an offset to the absence of such a rule in the railroad industry.

Furthermore, since the date of that report, there has been considerable extension of the areas within which the 48-hour workweek in outside industries has been mandated by governmental order. This means that in these outside industries, employees are now working 48 hours per week and are paid time-and-a-half rates for work performed beyond 40 hours per week.

In the railroad industry, the situation is and has been such that a normal 40-hour week is impracticable. An industry like the railroads which must operate 24 hours a day, 365 days of the year, whose personnel and work are spread over the length and breadth of the country does not lend itself to the same facility of hourly limitations as is feasible in the case of most industrial plants. Indeed

when the Fair Labor Standards Act was pending before Congress, the high and duly authorized representatives of the railway labor organizations appeared before the congressional committees and urged that railroad employees be excluded from the "hours" provisions of the pending legislation and stated, among other reasons, that the 40-hour week was impracticable in the railroad industry. Their recommendation prevailed, with the result that railroad employees are excluded from the "hours" provision of the Fair Labor Standards Act.

Although, therefore, it is a fact that except during the period of the existing war emergency, railroad employees enjoy the opportunity for larger "take home" wages than would be the case if they were subjected to a 40-hour week, nevertheless it is recognized that the mandatory requirement of a 48-hour workweek in outside industries, with time and one-half pay for hours in excess of 40 per week, produces a current situation where the offsetting peacetime advantages are overlooked and railroad employees feel that they are at a disadvantage in comparison with others.

Here is a situation where it may be said that an artificial, although temporary, lifting of aggregate earnings in outside industries has been effected, whereas an equivalent result has not eventuated in the case of railroad employees.

The carriers were largely influenced to make the agreement of August 7 in recognition of this situation. Judge Vinson's memorandum of June 30 did not foreclose any railroad wage increase but remanded the issue for further consideration, among other things, of tapered-off increases in the case of the higher paid groups. Judge Vinson's memorandum does not foreclose consideration of an increase as an offset to the absence of the 40-hour week overtime rule in the railroad industry. The mathematics of the situation are such that consideration for the influence of the 40-hour week would result in higher hourly increases for for the higher paid employees, than would result in the case of the lower paid employees. If this ascending scale reflecting the influence of the 40-hour week is combined with a tapered descending scale of a basic wage increase, the composite result becomes approximately uniform or horizontal.

As an example: To a man working 48 hours a week and getting 50 cents per hour the compensating equivalent for the 40-hour per week rule would be $2 per week whereas such compensating equivalent in the case of a man getting $1 per hour would be $4 per week. This becomes, so to speak, a tapering-off process in reverse to a descending scale of basic increases. In combination the influence of the 40-hour rule and application of a descending wage increase constitute a justification for the 8-cent agreement.

We recognize the almost universal desire on the part of the several organizations for a uniform wage increase, and we recognize also the impracticability in time of war of making a detailed appraisal of the wage rates of 73 different classes of railroad employees for the purpose of determining varying adjustments that might be applicable to each.

For all of these reasons it seems to us that the agreement of August 7, providing for uniform wage increase of 8 cents per hour in the case of the 73 classes of nonoperating railroad employees, may properly be approved within the limitations of Judge Vinson's memorandum. Accordingly we ask you as executive advisers of the President of the United States to recommend that the agreement of August 7 for a uniform increase of 8 cents per hour be approved.

It thus appears that, although not in accord as to the reasons why the agreement of August 7 should be approved, the fact is that there is no pending dispute between the carriers and these employees with respect to wage rates. We have reached an agreement and it awaits only governmental approval for its consummation.

Mr. WOLVERTON. Mr. Chairman.

The CHAIRMAN. Mr. Wolverton.

Mr. WOLVERTON. Mr. Aronson, a thought came to me as you gave your brief statement. It has reference to your use of the words "good faith."

I think that hits the nail on the head. It seems to me that this whole question revolves around the expression "good faith." Congress passed the Railway Labor Act in good faith. It was an act—I am speaking now of the Railway Labor Act—Congress passed that act with the thought that it would minimize labor difficulties in the railroad industry.

Over many years it has worked very satisfactorily because both parties have indicated good faith.

When we passed the Railroad Retirement Act, that was passed as a result of labor and management sitting down together in the same spirit in which the railway labor laws had been passed; and, acting in good faith, they came to an agreement. Congress was glad to confirm it because of the good faith that they showed.

When this situation comes to us, the question of good faith is necessarily involved. It does not seem to be a question of inflation. I think when Mr. Vinson granted $167,000,000 as against $185,000,000, that was agreed upon, he kicks the argument of inflation into a cocked hat; and to me there is only one question involved, and that is the good faith that should be shown toward decisions made under the Railway Labor Acts.

This decision or agreement between labor and management was arrived at in good faith by the operation of that act. I do not see anything in the law—in fact, I see to the contrary—that there was any intention upon the part of Congress to set aside the Railway Labor Acts. I think they are still effective. I deplore the necessity of coming to Congress for special legislation to make effective what to my mind should have become effective in an automatic way after all of the processes of the Railway Labor Act had been carried through.

It is deplorable because it indicates a lack of good faith in the administration of a law, or of laws that have been passed by Congress, and I deplore it because it can be used, whether rightfully or wrongfully—I believe wrongfully—by some, as a precedent for other acts which, as Mr. Jewell says, does not necessarily stand upon the same basis.

Therefore, I want to emphasize that thought, the words you used in the statement of this witness, namely, "good faith," and I believe that is what Congress would be doing if it passes this act.

Mr. O'HARA. Mr. Chairman.

The CHAIRMAN. Mr. O'Hara.

Mr. O'HARA. I would like to ask Mr. Aronson this question: As a very able lawyer, Mr. Aronson, what is the difference in this case and the situation which confronts thousands and thousands of people who are in the same class as your railroad employees, which gives Congress the right to act upon it either as an appellant court or in some capacity to recognize what may be termed a gross inequity and which does not apply to these other thousands and hundreds of thousands of laborers who are in the same situation as these employees are?

Mr. ARONSON. Well, Congressman, aside from the fact that I am probably not the able lawyer that you so courteously described me as, I want to say this: I have no disposition to evade any of the responsibilities that properly belong on railroad management in this or any other matter, but I am afraid that here is a case where, as the late Justice Holmes might have said, "a page of history is worth a volume of logic."

This controversy originally originated with the demand or the request of these organizations some 14 months ago for a wage increase. There were delays—I am afraid they were inevitable, by reason of the chaotic and disturbed period of time through which we were living—before that proceeding could come before an emergency board. There were the question of jurisdiction, the question of the

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impact, if any, of the Stabilization Act, and the question of the impact of Executive orders under the Stabilization Act.

It finally did get before an emergency board, and it was heard for a long time before that emergency board, and following the action of Director Vinson—and I have no right to and no disposition to criticize that action, because the Executive order did provide for some measure of review by the Stabilization Director, and I should like it definitely understood that I am not criticizing any action taken by any executive officers. That is one reason why I want to refrain from discussing features of the matter that I think do not belong to us to discuss. In any event, following that long period of time, and the intervening action, executive action and otherwise, the parties got together on August 7 and made an agreement.

Now, for reasons which appeared to us as adequate, and which are set forth in the presentation that we made before the special emergency board, we had felt, and still feel, that we came within the limitation of the stabilization program as, so far as we knew, it had been administered. We had our reasons for executing that agreement. The organizations had their reasons for executing the agreement. That is not by any means unusual. From time immemorial parties who have made agreements have had varying, or even conflicting, reasons why they signed a particular agreement, and we had signed that agreement, and we were hopeful that it would command the necessary administrative approval, because from our viewpoint, by reason of the language in the Executive orders that were then in existence, and are still in existence, we are not free to put that agreement that we made into operation, unless and until it receives administrative sanction.

We have continued since that time, and no administrative approval has been forthcoming. We had opportunity to present our reasons before the second or special emergency board that was created to hear the controversy—not to hear the original merits of the controversy but to hear the question of the application of the proposed sliding scale to these particular classes of employees, and before that board, at considerable length—and I am sure the time here would not permit me, and I suppose you would not have any interest in having me relate all over again the arguments that we there made—in any event, thus far no administrative approval has been forthcoming.

Now, whether we are permitted to put that 8-cent agreement of August 7 into operation as a result of administrative approval, or as a result of congressional action, I repeat I think does not lie in our mouths to suggest, but we do stand ready to make that agreement effective, if and when it becomes legally permissible to do so.

I am afraid I may not directly have answered your question, but I am sure that in the very nature of things, as I see it, no more direct answer is possible.

Mr. O'HARA. What I would like to ask is, Was the first board to act upon this question of wage increases a railway labor board, or was that an emergency board appointed by the President?

Mr. ARONSON. May I parenthetically say that we all of us very frequently refer to the Railway Labor Board. There is no such board as the Railway Labor Board. The situation is this—and I may explain it in a word, I think, at least I hope I may be able to. Under ordinary circumstances, if there is a threatened interruption of transportation service, that is to say, if you please, if there were a threatened strike, following the efforts of the parties to get together, and failure

of the parties to get together, and following the efforts of the Mediation Board and the failure of the Mediation Board, the President is authorized by the Railway Labor Act to appoint an emergency fact-finding board, which thereupon enters into hearings for the purpose of ascertaining the facts in the case, and then to file its recommendation. There is no sanction that goes with the recommendation of the emergency fact-finding board under the provisions of the Railway Labor Act, except such sanction as is to be found in widespread public opinion and reaction to its determination or its findings.

However, as a result of the impact of the emergency conditions brought about by the war, the President appointed what might be described as a more or less permanent panel during this period of emergency of a dozen or two dozen names, which panel was to serve for the supplying of members of emergency boards that might from time to time be required to hear controversies between management and the men on wages and working conditions, and the Chairman of the Mediation Board, who was appointed by the President as chairman of this Railway Labor Panel, was authorized by Executive order to select from that panel those three individuals who in any particular case would serve as an emergency board.

That procedure was followed in this case. The President having, by Executive order, supplied a panel of names for the emergency boards, the Chairman of the Mediation Board, who is also the Chairman of the Railway Labor Panel, designated three members from that panel to sit in review on this particular controversy, and they did.

Mr. O'HARA. Was that under the Railway Labor Act, or under some of the emergency provisions?

Mr. ARONSON. I would say it was under the Railway Labor Act, supplemented, if I may use that expression, by the Executive order of the President, which set up this emergency panel, and only to the extent that the emergency panel was set up by the President in advance was there any deviation from the procedure that had conventionally been followed in the past. I think I should say that that, as I understand it, at least, was a concomitant and an accompaniment of the no-strike pledge that was made by the organizations at the time of Pearl Harbor. In other words, the organizations made a no-strike pledge to the President—at least I so understood—and that would have made it inconsistent with that pledge to have spread a strike ballot, and accordingly, what might be described as a short circuit, was provided by the setting up of the Emergency Panel, that would be available, even in the absence of an actual strike vote. My attention is called to the fact that that Emergency Panel, as was the case prior to this Emergency Panel arrangement, was required to act under the provisions of the Railway Labor Act.

Mr. O'HARA. And, as a lawyer, you did not feel that you had any right to appeal from the order of Judge Vinson in this matter to the courts?

Mr. ARONSON. Well, it would not lie with us to take any appeal. We are almost in the middle in this controversy. We have understood from Judge Vinson that it was the position of his office that we are required to put into operation the graduated scale, and we have felt constrained to obey that position of Judge Vinson's office. However, within the last few days the organizations have invoked the services of the National Mediation Board, which has advised us by telegram

that its services have been invoked, and has called our attention to the provisions of section 6 of the Railway Labor Act, which prohibits the changing of any wage scales during the pendency of mediation, so that you will understand our embarrassment, if I may call it no stronger term than that, because we have a high executive office of the Government which advises us that it is a requirement of law that we shall put into effect the graduated scale, and we have another arm of the Government which advises us that its mediation services have been invoked, and which specifically calls our attention to the provisions of the Railway Labor Act, which prohibit the changing of any wage rates while mediation is in progress. And I wish somebody would tell us just who it is that we should obey.

Mr. WOLVERTON. Mr. Chairman.

The CHAIRMAN. Mr. Wolverton.

Mr. WOLVERTON. I have a question which is along the line of Mr. O'Hara's questions. Would it not have been possible for the President to have made a directive that would have exempted from the jurisdiction of the Stabilization Director, Mr. Vinson, agreements that were arrived at under the Railway Labor Act? I mean decisions of emergency board, or whatever board is involved here?

Mr. ARONSON. Will you excuse me from answering as to what the President might have done, Congressman Wolverton?

Mr. WOLVERTON. I am not suggesting that you tell us what he should have done. I am just asking if it could not have been done. It seems to me that if the President could change the set-up of the Railway Labor Act by his directive to the Stabilization Director——

Mr. ARONSON. Director of the Office of Economic Stabilization.

Mr. WOLVERTON. If he could set up a directive that would give the Director of Economic Stabilization the authority to do that, which is, in effect, to set aside an agreement that has been reached, it would have been possible to have made a directive that should not apply to a case such as this one, where the parties have followed the prescribed course fixed by the Railway Labor Act.

Mr. ARONSON. Congressman, the Economic Stabilization Director has not set aside the agreement of August 7. What he did was to set aside the recommendation of the emergency board. The emergency board recommendation having been made in May, subsequently, in August, the parties came to an agreement. The Stabilization Director has not set that aside, but as we see the Executive orders under which we are operating, we have no legal right to make that agreement operative and effective in the absence of approval by the administrative authorities. If I have made myself clear.

Mr. WOLVERTON. That is the point. The directive of the President, it seems to me, could have provided for that very situation, and then there would have been no necessity to come to Congress with a bill of this kind.

Mr. O'HARA. Mr. Chairman, I had one or two other questions.

The CHAIRMAN. Very well.

Mr. O'HARA. Mr. Aronson, I don't know that you have answered my question that I first asked, but I am not going to embarrass you by pressing it.

Mr. ARONSON. You sha'n't embarrass me.

Mr. O'HARA. What I am trying to find out is, what is the distinction in your mind, as a lawyer, or in whatever capacity you want to place yourself——

Mr. ARONSON. Well, I am a lawyer.

Mr. O'HARA. Between the situation affecting these employees and affecting the other employees that makes for the necessity for coming to Congress for this law?

Mr. ARONSON. I do not represent the organizations, and I am not in a position, nor authorized to argue their case, but I am entitled to call your attention to this situation. I don't recall that any other class of employees have ever heretofore, by congressional action, been separately dealt with, so far as wage and working condition relationships are concerned. We have had for many years, as we all know, legislation by Congress in the form of the Railway Labor Act, and prior to that time we had the provisions of the Transportation Act of 1920, under the terms of which wages in the railroad industry have been singled out by Congress, rightly or wrongly I am not arguing, but the wage and working condition relations of railway employees have been a matter of congressional legislation for a generation or more.

Now, it might be argued that it was the intention of Congress not to have the provisions of the Railway Labor Act supplemented or modified or superseded by any of these later acts. You gentlemen that voted on these later acts are undoubtedly in a better position than I am to say what the intendment was. Now, if it was the intendment not to supersede or supplement the provisions of the Railway Labor Act, that might be one basis for differentiation or distinction between this case and the case of nonrailroad workers who might feel that they should have treatment along this line.

Mr. O'HARA. If this bill is passed by the Congress, it would be retroactive, I believe, and the 8-cent raise would go back to February of 1943, and having in mind that possibly there will be further application to reduce the 48-hour week to a 40-hour week, would that necessitate increased passenger fares or freight rates upon the part of the operating railroads?

Mr. ARONSON. Well, I am not in a position to say as to that, Congressman. I think you are going a little faster than we think the facts warrant in speaking of the 40-hour-week increase, because one of the reasons why we think this 8-cent agreement is within the scope of the stabilization program as it has been administered is because of the disparity between railroad workers and others in the case of the 40-hour week. I recognize the organizations do not have the same reason for making the 8-cent agreement as we have, but let there be no misunderstanding; we think that the same check should not be cashed twice. We think the 8-cent agreement finds some measure of justification as being within the stabilization program in that it serves as an offset, so to speak, to the disparity in the case of the 40-hour week. I have no purpose of going into that, because I recognize this is not a wage board before whom we are appearing, that you undoubtedly are not concerned with the details of the wage schedules, you are certainly not concerned with the differences between railroad employees and others, including the fact that the railroad employees themselves appeared before Congress and asked

that they be not included within the hours provisions of the Fair Labor Standards Act, and things of that sort. I don't want to go into any of those matters, because I am afraid we would have to have many hearings and we would have to go into it from the beginning to the end in order to avoid inadequate conclusions that might be drawn from casual or abortive statements that might be made concerning a very comprehensive subject, under the limitations that now control us.

Mr. O'HARA. What I had in mind was—I think it is generally agreed by nearly everyone that this 8 cents an hour was a proper increase for these employees. Now, the question I would like to ask is this: With that raise, does it mean an increase by the operating railroads in freight rates, if that alone enters the picture?

Mr. ARONSON. Congressman, there again I hope you won't think I am just evading every question that you ask me, but in all fairness, I should say this: Of course these wage increases will become an integral part of the operating expenses of the carriers. Now, with these increased expenses, what may be the situation from time to time as a predicate for any transportation increases, of course depends on the volume of traffic and many other factors, which would then come before the Interstate Commerce Commission in the normal way in which these matters are dealt with under the existing acts of Congress. I don't want to be foreclosed, I don't want to have the position assumed that 170 or 180 million dollars is "chicken feed," if I may use that language. I know you gentlemen in the Congress deal in much larger figures than that, but from the point of view of the railroads, it is, of course, a sizable item. But you have access, month by month, to the operating expenses and earnings accounts of the railroads, and you are, I think, as well qualified as we are to determine what the immediate consequences may be, and what the ultimate consequences may be.

Mr. MYERS. I would like to pursue that line of questioning a bit. You have partially answered it. But you are here, and I appreciate you are here advocating the passage of this resolution——

Mr. ARONSON. No, I am not advocating it. As I tried to state, we tried to refrain from either advocating it or taking any other position with reference to it. But we feel it our duty to respond, as best we can, in the way of giving you a factual predicate, and beyond that I respectfully suggest that in this delicate situation it is a matter for legislative judgment or legislative wisdom rather than for any recommendation on the part of management.

Mr. MYERS. On page 2——

Mr. ARONSON. Of what?

Mr. MYERS. Of the bill before us, it states—

* * * the wage increase recommendations do not provide a basis for increase in railroad rates—

and I think probably Mr. O'Hara had that in mind when the question was asked, and if you do not care to answer, do you think any of the representatives of the railroads would care to make any comment on that sentence in this resolution?

Mr. ARONSON. No, beyond what I have already said in response to the question by Congressman O'Hara, Congressman, I think I have nothing further to say.

Mr. MYERS. Therefore, the operators of the railroads do not wish to go quite so far as this resolution may go, namely, that this recommendation of an 8-cent increase to the employees does not provide a basis for an increase in rates? You would not, and the operators would not care to go quite that far?

Mr. ARONSON. I make no stipulation to that effect. I will put it that way, we make no stipulation to that effect. You will understand we had no part in the preparation of this resolution.

Mr. BULWINKLE. I take it that you are here in the attitude of "watchful waiting." That more than anything else.

Mr. ARONSON. It might be so described.

Mr. BULWINKLE. I notice you said, in giving out your statement, that this bill was one solution of the difficulty.

Mr. ARONSON. Yes, sir.

Mr. BULWINKLE. Without asking you to make any recommendation, so as not to embarrass you, what other solution have you got in mind?

Mr. ARONSON. Well, administrative approval of the agreement would be another solution.

Mr. BULWINKLE. What else is there?

Mr. ARONSEN. If the organization would accept the 10-cent to 4-cent sliding scale, that would be a third solution.

Mr. BULWINKLE. That is another. What else?

Mr. ARONSON. Well, three solutions are pretty good to any one problem, are they not? For the moment I cannot think of any others.

Mr. HALLECK. How about court action?

Mr. ARONSON. Well, Congressman, in the case of court action, there is nothing we can do. If we were sued for the enforcement of the 8-cent agreement, I don't mind saying that I can envisage a good deal in the way of delay and complication. For one thing, we don't have any one railroad in the United States that operates all of the railroads. There are a hundred and more, and counting the short lines, several hundred. I don't know just what court would have comprehensive enough jurisdiction to take over a lawsuit that would cover all of the railroads. I did say, however, before the special emergency board in October that if litigation were instituted by the organizations to test this matter, on behalf of management I promised we would cooperate in every possible way for the expeditious disposition of the matter. But even with the utmost of cooperation on our part, I'm afraid, poor lawyer as I am, that I cannot see that we would get a very prompt disposition, and it would run into a very long period of time before the highest court would be reached. In the meantime, Rome falls.

Mr. BULWINKLE. The whole problem with court action is the time element, is it not?

Mr. ARONSON. That is very important, Major Bulwinkle, very important.

Mr. HALLECK. Mr. Aronson, I don't know whether you would want to characterize it or not, but it strikes me, as I read this legislation, and I am assuming that the lawyers who drew it knew what they were about, and that it will effect the objective sought, that it may be said to be, in truth and in fact, an expression of legislative intent as to whether or not it is the intention of the Congress to supersede or supplant the Railway Labor Act, which has been in effect for a long time.

Mr. ARONSON. I dare say perhaps to be described as the law books frequently describe such matters, as declaratory legislation.

Mr. HALLECK. Of course it does not refer generally to the Railway Labor Act, and the other acts subsequent thereto, but rather to this specific agreement that was entered into.

Mr. ARONSON. That is right, Congressman Halleck. The legislation has the words that it is "in accord with the requirements of the Railway Labor Act and all other requirements of law, and shall be held so to be, anything in the laws of the United States to the contrary notwithstanding."

Mr. HALLECK. Since the stumbling block seems to be the order entered by the President in which he said in effect that any agreement arrived at out of the procedure of the Railway Labor Act shall also be subject to the approval of these other agencies, including the War Labor Board, do you think the use of the words "law or laws" would include these Executive orders and such effect as they might have?

Mr. ARONSON. I would have so understood them, Congressman. Because the only orders or directives that would mean anything, at least as we understand it, would be those that constitute the law of the land.

Mr. HALLECK. If we adopt this legislation are we adopting or voting an increase in wages for one group of workers, or are we qualifying the legislative intent of Congress?

Mr. ARONSON. Well, you are not voting any increase in wages, as a matter of fact, if you vote for this. You are voting merely to validate an agreement, you are voting to make an agreement that we are afraid is abortive, as the law now stands, in the absence of sanction or approval, you are voting to make that agreement an operative document. That is, I submit, something altogether different from voting me an increase in pay, because Congress is not passing on whether 8 cents, or 13 cents, or 3 cents, is the proper amount of increase. At least I would assume you were not, when you consider this. I would assume you are predicating your action on the agreement between the organizations and the carriers, and accepting an agreement that both parties made under the provisions of the Railway Labor Act as sufficient for you to make clear the distinction. That is something altogether different from responding to a demand, if you please, on the part of an organization that they be granted an increase notwithstanding the refusal of their employers to concur in any such increase.

Mr. HALLECK. Of course we did, in subsection (e) of section VII, of the War Labor Disputes Act, and that is the act which sets up and legalizes the War Labor Board, specifically exempt those operations, and I take it the results, obtained under the Railway Labor Act.

Mr. ARONSON. I had forgotten that.

Mr. HALLECK. Could you say whether or not good minds in the legal profession, prior to the issuance of the Executive order subjecting the decisions under the Railway Labor Board to these other determinations, whether good minds in the legal profession differed as to whether or not the Railway Labor Act was superseded?

Mr. ARONSON. Well, I don't know whether you would say "whether or not the Railway Labor Act was superseded," but I would like to submit that the provisions of the Stabilization Act of October 1942, might very well have been understood, and I for one so understood,

that the provisions of that Stabilization Act did not supersede the Railway Labor Act, but were superimposed, so to speak, on all acts, including the Railway Labor Act. That is to say, at the point where the Railway Labor Act stops, this new legislation in the form of stabilization, carried on. In other words, that it might be permissible to make an agreement, as in the past, under the provisions of the Railway Labor Act, but that the parties no longer were free to determine their own salvation, free of Government approval or sanction. In other words, there was superimposed on the country, by the provisions of the Stabilization Act, which put its heavy hand—and probably it is a proper hand, I don't mean to criticize it—but put its heavy hand on the whole economy of the country, and said:

> From now on, nobody may raise wages or change wages, nobody may raise the prices of commodities, or do any of the other things that normally he may have done, except and unless Government approval is forthcoming for such action.

Mr. HALLECK. Would you care to offer an opinion as to whether or not the passage of this act would mean, in effect, that henceforth, agreements arrived at under the Railway Labor Act would become effective without regard to the Price Stabilization Act, or War Labor Disputes Act?

Mr. ARONSON. I myself would feel that if any agreement were made in the railroad industry under the provisions of the Railway Labor Act, assuming that this legislation became law, it would still be necessary to obtain approval. Now, if it were an agreement unrelated to the action of an emergency board, under the provisions of the Executive order, such an agreement is subject to approval by the Chairman of the Railway Labor Panel, and not by the Economic Stabilization Director. The review, as I recall it, under the Executive order, by the Economic Stabilization Director, is not a review primarily of agreements. It is a review of action of emergency boards. Voluntary agreements between management and organizations, as I understand the Executive orders, are subject to review and approval by the Chairman of the National Railway Labor Panel. There are, apparently, the two executive offices of review; one serves to review recommendations of an emergency board, or is clothed with authority to review recommendations of an emergency board, namely, the Director; the other is clothed with authority to review the voluntary agreements that may be made between the parties, with the additional proviso that in case of voluntary agreements made by the parties which are approved by the Chairman of the Panel, he may not do so if price increases are involved, without the approval of the Stabilization Director. I am afraid I have somewhat clumsily stated it, but I think that is the substance of it.

My attention is called to the fact, and perhaps for the integrity of my statement I should add it, that if the Chairman of the Railway Labor Panel is in doubt that approval of an agreement between carriers and organizations will produce a price increase, he is authorized to empanel an emergency board whose recommendation in turn then becomes subject to review by the Stabilization Director.

Mr. HALLECK. Is it fair to say that the end result of this legislation is to give full force and effect to the agreement arrived at under the Railway Labor Act, and to obviate and eliminate restrictions on that agreement sought to be imposed by reason of other statutes and Executive orders alleged to have been issued under that authority?

Mr. ARONSON. I would so understand it; as to this agreement.

Mr. HALLECK. Limited to this one agreement?

Mr. ARONSON. Oh, yes. In its terms it is limited to this one agreement.

Mr. HALLECK. I don't know what the attitude of the railroads and the brotherhoods would be about asserting that as a general legislative policy.

Mr. WOLVERTON. Would it not be possible to accomplish all that is sought to be accomplished by directives issued by the President?

Mr. ARONSON. I would so understand it, if they were forthcoming.

Mr. WOLVERTON. In view of the fact that this legislation, if it passes Congress, must go to the President for his approval, so that he must eventually act upon it, having in mind that he encouraged the labor organizations to enter into the agreement, I cannot see why a short cut was not taken or could not be taken, by a directive issued by the President, which would have cleared the whole situation up.

Mr. HALLECK. I might supplement that, just generally speaking. Congress increasingly objected to the nonresponse to demands for action, and insisted that some means be devised to correct the administrative failure to deal with railroad wages.

Mr. HINSHAW. Mr. Aronson, on reading the resolution, and the words already referred to by my colleague, Mr. Halleck, concerning "anything in the laws of the United States to the contrary notwithstanding * * *"

Mr. ARONSON. Yes, sir.

Mr. HINSHAW. Attention is called to the fact that a number of directives and regulations have been promulgated, stemming from the powers of the Commander in Chief, and also from statutory powers, which included directives of the Treasury Department, providing that certain violations of wage increase orders shall require the Treasury Department to deduct from the expenses, in the income tax statement, those amounts that have been paid in excess of the directives. Is it the feeling of counsel for the railroads that this joint resolution will obviate any such order?

Mr. ARONSON. Oh, I would think definitely, yes. When Congress speaks, the rest of us obey.

Mr. BOREN. Mr. Aronson, Has the agreement, referred to as the agreement made on August 7, 1943, been read into the record yet?

Mr. ARONSON. I understand Mr. Jewell made it a part of his testimony.

Mr. BOREN. It has been made a part of the record, in full?

Mr. ARONSON. I understand so.

Mr. BOREN. I understand that a vote reflecting the attitude of the men on this issue has been taken. Have you been given official notice of that vote?

Mr. ARONSON. I don't recall whether we had official notice of it. We know of it. I mentioned the fact before the Senate Committee. I said that on behalf of the railroad management we did not approve such procedure, that we deeply deplored the fact that it was brought into the controversy at all. I have refrained from referring to that, because, happily, as I see it, Mr. Jewell, on behalf of the organizations, has not mentioned that as a consideration.

Mr. BOREN. I am mentioning it as a consideration, because of my own views on strikes in time of war, or threat of strike. I have a

deep-seated feeling about it. And I should like to have in the record—I will not ask you to furnish it, but I will ask that the representative of the organizations furnish it—the exact wording of the issue on which the men took a vote, and I want to know whether they voted to strike——

Mr. ARONSON. I must defer to those who represent the organizations to answer that.

Mr. BOREN. I ask that that be made a part of the record.

Mr. ARONSON. Yes, sir.

Mr. BOREN. And since I have no disposition to continue the questioning, I would simply like to add that I am personally deeply grieved by the fact that, unless I am incorrectly informed, the organizations felt it necessary to hold over our heads the club of a threatened strike, and I feel that such a threat has done great injury to the whole railroad industry in the minds of the public, and that it has done a very unfortunate injury to railroad labor in particular, from the standpoint of the public reaction.

Mr. ARONSON. I have already expressed my view on behalf of management with reference to that, and I think it accords with the statement that you have made.

Mr. BOREN. I have on numerous public occasions pointed with pride to what railroad labor has done. I don't mean to be expressing myself here as opposed to justice, but I cannot find myself voting for what I believe to be right, without announcing that I believe that strike threat action was unwise, and was not in keeping with the proper spirit and tradition of the conduct of labor relations on the railroads in the past. That is my view.

Mr. PRIEST. Mr. Aronson, I want to clear up in my own mind whether the handling of this matter was in conformity with the law, the Price Control Act of 1942, and in conformity with the Executive orders issued pursuant thereto. Now, it has been held in some cases that there was no justification for referring this agreement to the Office of Economic Stabilization, on the ground that no increase in price was involved. However, in answer to Congressman Myers and Congressman O'Hara, you stated that you cannot give us any assurance that there would not be some rate increases. In view of that situation, is it your opinion that the law was conformed with by Judge Vinson, and was he acting within his authority?

Mr. ARONSON. Well, I would say——

Mr. PRIEST. Within his authority under the Executive order, when he took the action he did?

Mr. ARONSON. May I first dispose of one portion of your question by saying that I do not understand that Judge Vinson disapproved the 8-cent increase on the ground that it would require increase in rates.

Mr. PRIEST. I understand that.

Mr. ARONSON. If, for no other reason, the sliding scale comes within approximately 10 percent of the same amount of wage increase. I don't know that the agreement of August 7 in any formal fashion was ever submitted to Judge Vinson for approval. It was recognized by all parties, however, that before we, on behalf of the carriers, would feel free to put it into operation, we would require governmental approval, and much in the way of informal discussion took place. Now, I do not understand, Congressman Priest, that the question of

an increase in transportation rates ever came into any of those considerations.

Mr. PRIEST. Even in the report of the Emergency Board on May 24, or the agreement reached in August?

Mr. ARONSON. The report of the Emergency Board in May carried a certificate to the effect that it would not require an increase in transportation rates.

Mr. PRIEST. That is all, Mr. Chairman.

Mr. HARRIS. On page 2 of section II of the whereas clause, it is indicated this bill would not provide for increases or reductions in rates at all.

Mr. O'HARA. As a matter of fact, the whereas actually, under the rules, will have to be stricken out, as I understand it.

Mr. HARRIS. They are not part of the law.

Mr. O'HARA. They are not a part of the law at all.

I would like to ask this witness one more question, and I apologize for taking up so much time. Mr. Aronson, we have an interesting situation here, which is certainly complex in its legal effect on the right of Congress, in spite of the emergency conditions, in spite of the War Powers Act, to ratify an agreement between the carriers and the employees, and I am wondering what your opinion is as to the constitutionality or the legality of such an act, when we must recognize that there is vested in the President, during the emergency, under the War Powers Act, certain powers, and it is a very great question in my mind whether Congress should interfere with the administrative.

Mr. ARONSON. I would suppose anything you ever gave you can take away. The only thing you can't take away is something that is in the Constitution.

Mr. O'HARA. Let me call your attention to this question, which will become very interesting from a lawyer's viewpoint, at least. Where Congress discharged three employees and says they shall no longer be paid by the United States, a question has been raised whether or not we have been invading the powers of the President, whether we have any right to do so. I am not asking you to give any opinion, but I am just curious as to your reaction.

Mr. ARONSON. For what it is worth, I wouldn't suppose there was any constitutional question that was involved here, because you are, at most, declaring your interpretation of existing laws which were passed by Congress, and of Executive action pursuant to laws passed by Congress.

Mr. O'HARA. Has there ever been, in your experience, or in any of your study of this subject, a question where Congress has been asked to ratify an agreement, whether it be between corporations and individuals or between individuals?

Mr. ARONSON. Perhaps not in that precise form, Congressman O'Hara, but I do recall that before the Senate committee counsel for the organizations referred to some cases in the Supreme Court, in which Congress had validated particular bridges over navigable streams where they had previously been declared, apparently, to have been unlawful by the Secretary of War. Notwithstanding such declaration of unlawfulness, or refusal to approve, Congress did approve specific structures over navigable streams, or something of

that sort, which I think is somewhat analagous to this situation, although I recognize, of course, the different implications that are present.

Mr. HOWELL. Mr. Aronson, I noted at the beginning of your testimony, and several times since you began to testify, you stated the position of the carriers with reference to this resolution, that you will carry out the terms, in the event the resolution passes.

Mr. ARONSON. Yes, sir.

Mr. HOWELL. And other than that you are taking no stand with reference to it.

Mr. ARONSON. Yes, sir.

Mr. HOWELL. But as to certain of the provisions, such as relief of the manpower shortage and so on, the Members of Congress would at least suspect the carriers are just as much interested in this being passed as the employees. But beyond that, and in relation to that, I want to comment a minute about Mr. Boren's observation with reference to the strike or the threatened strike. Perhaps my understanding is not based upon a sound premise, but when this wage increase was finally turned down by the Economic Stabilization Director, I understood that the railroad employees, that is, the unions, were going to poll the various members of their organizations to ascertain just how strong their sentiment was with reference to this wage increase, and not for the purpose of basing an actual strike on the vote at this time. But it was to find out how they felt. In other words, it was in the nature of an advisory note to the presidents of the railway employee unions, and certainly not made for the purpose of holding out the threat of a strike over the heads of the operators or the Members of the House or the Senate. Am I correct in my original assumption, that this poll was taken of the members of these railway unions just to ascertain the strength of their sentiment, and not for actual strike purposes?

Mr. ARONSON. May I defer to the representatives of the organizations to answer that question. I will give you my understanding, if you wish, I cannot, however, speak for them with authority.

Mr. HOWELL. Of course, it is really Mr. Jewell's question. He did not have an opportunity to make a final answer to Mr. Boren's question. I have never seen the result of this strike poll, if you want to call it that, published. I don't know whether the employees' unions want it released. Mr. Boren asked the direct question and wanted to know exactly what was found. I am giving my interpretation of why that vote was taken, in the hopes, of course, of defending in a small way, if I can, the record made by the employees and the railroads, in their labor relations throughout the years.

Mr. BOREN. Of course, the gentleman thoroughly understands I have made no charge. I have asked that the facts be put in the record.

Mr. HOWELL. I didn't mean to say you had. I said I would give you my version, and I hope that Mr. Jewell will give us some information as to whether my understanding is correct, or whether there was any effort, anywhere along the line, to hold the threat of a strike over the heads of either the operators or the representatives of the people.

STATEMENT OF M. B. JEWELL—Resumed

Mr. CHAIRMAN. Mr. Jewell.

Mr. JEWELL. Mr. Congressman, I want to say, first, to Congressman Boren, that we appreciate his remaining here, since the question was raised, so that we might answer it.

We distributed to the members of the committee, and there is in the Senate record, the report of the 15 chiefs, dated October 25, 1943, from which I would like to read:

> These facts—

that is, the facts with respect to the handling of this matter—

> have been reported from time to time throughout the period of these proceedings, and from this detailed report it should be clear we have exerted every effort to satisfactorily depose of this controversy without responding to the increasing demands of the membership that the chief executives carry out the laws of the organizations and issue a strike ballot. We regret our inability to otherwise adjust the difficulty, and have concluded a strike ballot will be issued on October 25, 1943, to each employee involved. That ballot is returnable no later than November 25, 1943.

I would like to stop there and say this; the laws of these organizations make these chief executives amenable to the requests of their membership, and under certain conditions we are required to take a strike vote by the laws of our organizations. By practice all through the years we have taken a strike vote of the membership and allowed them to record their vote on the results of mediation or on the results of conferences with our employers, and before we go to an emergency board. But under Executive Order 9172, which the President issued, substantially at our suggestion, we said to him that—

> all other organized labor has given to you a pledge that they will not strike. We intend to be bound by that pledge, but we have a bit of a hiatus here. The public is going to misunderstand our conforming to the laws of our organization and the practice that has obtained under the Railway Labor Act, in that we may have to take a strike vote and record the will of the men to strike in order to get an emergency board—

and that has been the practice. We said:

> Now, won't you issue an Executive order that will obivate the necessity of taking that strike vote and set up this panel so that we can ask somebody acting for you to appoint an emergency board, without the taking of that vote.

I only mention that to show this; our men have been educated throughout the years to understand that their chief executives are required, at a certain development of the proceeding of such a case, where a settlement cannot be secured by the agency set up by the Government—the executives are required to take a strike vote and let the men record their views.

Mr. Boren. If you take such a strike vote, does that bind your men to strike?

Mr. JEWELL. No, sir. The discretion as to whether a strike shall occur and when the strike shall occur, even though the men vote to strike, is in the chief executives of the various organizations. The vote has been compiled by each chief executive, but that vote has not been canvassed. I don't know what it is. My office compiles the votes for seven of the organizations under definite authorizations from those seven chiefs. I don't know what the result of that vote is. I have it up at the hotel, but it has never been opened. It is not going to be opened. The other chiefs have not advised each other as to the result of their respective votes, as we always would.

We pledged to the Senate, and we pledge here, that we will not fix a date for a strike or announce the result of the strike vote as long as this resolution is being reasonably considered by the Congress. We did not take the vote with the intention of striking. We took the vote, if I may say it, without going further, in order to avoid the demoralization of the railroad service of this country which was beginning to develop. I have been with these men, working with them, and as an officer, for nearly 27 years, and I never saw as demoralized a situation among the railroad workers as there has been for the last 2 months.

Mr. BOREN. Do you think they want to strike?

Mr. JEWELL. No, sir.

Mr. BOREN. I quite agree with you.

Mr. HOWELL. May I ask you, Mr. Jewell, do you have a record, or do you have an opinion at the present time, of the number of times the members of the union have been called upon to cast a strike vote, and after that vote has been taken, a strike has been called?

Mr. JEWELL. In every national wage movement we have had from 1931 to date, the membership have voted whether or not they were willing to strike, and no strike has occurred. We had to do that in order to operate the machinery under which we were functioning.

Mr. BOREN. Roughly, how many strikes—how many strike votes have you called in the history of the brotherhoods, and then how many times have you struck?

Mr. JEWELL. There has been no strike since 1922 in the railway industry, or any threat of a strike.

Mr. BOREN. How many votes?

Mr. JEWELL. There has been a strike vote taken, a referendum vote of the membership taken, in every national wage movement we have had, and we have had no strike in any of them.

Mr. BOREN. Might I respectfully suggest that the management and the brotherhoods see to it that such justifying factors as you have stated here today be made better known to the public?

Mr. JEWELL. We have given the widest possible distribution to this pamphlet here. It has been distributed all over the country, and to every Member of Congress in both Houses. It has been distributed to all the newspapers and columnists, and I think the widest possible distribution possible has been given to it. I have given two or three interviews, and on November 25th I informed newspaper representatives that the result of the strike vote was not being canvassed by the chiefs and would not be released.

Mr. O'HARA. Mr. Jewell, you have spoken of the demoralized condition of the employees that you represent. That has been due to the fact, has it not, that there has been an increase in the cost of living to some extent, and these men have had a serious condition to face, to meet that rising cost of living and support their families, and they felt that this increase in wages was justified in the face of the increased cost of living. Isn't that the situation?

Mr. JEWELL. Well, it was not only justified by the increase in the cost of living. I think the demoralization that has arisen among our membership generally is due to another factor. These men literally had this increase of 8 cents an hour in their pockets, as it were, when

the President asked us on May 27th to accept it, and we reported to him they had agreed to accept it. We have been reporting to them every week the developments. We have to report to them. They know the efforts that were made, the requests that were made, and the agreements that were made all the way through this thing, and they made up their minds that we were not going to be able to get it settled unless they could find some way to help us, and the only way they could help us was by a strike vote, and they were demanding that by the hundreds and hundreds of telegrams, and they have the right to that, whenever that condition has been met, under the laws of their organizations. Fortunately, I think, for both the men and the country, they have a democratic labor organization. We are subordinate to them and have to respond to their desires.

Mr. WOLVERTON. Has ever any request been made of the President to handle this situation by directive, either by an amendment of the original order, or by a new order?

Mr. JEWELL. There have been 8, 10, or 12 conferences that have been held with the President, most of them by Mr. Harrison, as our representative; a subcommittee met with him once. And I imagine every possible basis or avenue of settlement was explored. I cannot answer in detail specifically as to your question.

Mr. WOLVERTON. I put that forward because I am thoroughly convinced that that would have been the easiest, and I believe the best way to handle this.

Mr. JEWELL. I have been in on every wage movement these organizations have handled since 1918, and I never worked as hard, nor seen them work as hard, to try to get a settlement as they did in this case. We did everything in the world that man could conceive of to try to get this thing settled in order to avoid coming here or going any other place.

The CHAIRMAN. The committee will adjourn until 10 o'clock, Thursday.

(Whereupon, at 12:20 p. m. the committee adjourned to meet at 10 a. m., Thursday, December 16, 1943.)

RAILWAY PAY OF NONOPERATING EMPLOYEES

THURSDAY, DECEMBER 16, 1943

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to adjournment, in the committee room, New House Office Building, Hon. Clarence F. Lea (chairman) presiding.

The CHAIRMAN. The committee will come to order.

We have the appearance this morning of our old colleague and friend, Fred Vinson. So, we will be very glad to hear you, Judge.

Without objection, the Judge will complete the reading of his statement and then be subject to examination by the members of the committee.

You may proceed, Judge.

STATEMENT OF HON. FRED M. VINSON, ECONOMIC STABILIZATION DIRECTOR

Judge VINSON. Mr. Chairman and gentlemen of the committee, the joint resolution before you which contemplates congressional enactment of an 8-cent across-the-board wage increase for the nonoperating railway employees is an assault upon the Stabilization Act of October 2, 1942. That is why I am before you. As Director of Economic Stabilization, I am interested in the effectuation, not the emasculation, of that act.

Under the act, the administration has, as directed, developed a wage stabilization program. This wage stabilization program is a part of our broader anti-inflation program. The time is opportune for Congress to exercise its legislative function by passing laws which will combat inflation—the unspectacular but nonetheless relentless enemy of the national interest. Instead, it is proposed by this resolution that Congress shall act as an administrative agency, and approve a wage increase that violates the wage stabilization program.

If Congress dislikes the wage stabilization program, let it repeal or amend the act of October 2, 1942. The pending resolution seeks partial treatment for the benefit of a particular group.

A general industry-wide across-the-board increase, in any amount, for the nonoperating railway employees is contrary to the wage stabilization standards. Therefore, if Congress legislates a wage increase for these workers it will become difficult, if not impossible, to deny similar wage increases for other wage groups; and indeed it would be unfair not to give other workers the same liberal treatment.

95000—44——6

In my statment to the Senate committee, I said that if this joint resolution passes, Congress will thereby break the Little Steel formula. That is true because the Little Steel formula is the only wage control standard which permits a general industry-wide across-the-board increase. These workers have nothing coming to them under that formula. Since it appears that many members of the Senate did not understand this, I shall today spell out the reasons why this is so.

I. The Stabilization Act of October 2, 1942, directs the administration to develop and carry out a wage stabilization program: The very first sentence of the October 2, 1942, act provides—

> * * * the President is authorized and *directed*, on or before November 1, 1942, to issue a general order stabilizing prices, wages, and salaries * * *. [Italics mine.]

I have asterisks here indicating deletions, but the act is short—4 pages—and this has the pertinent language. The act continues:

> The President *may* * * * thereafter provide for making adjustments * * * to the extent that *he finds* necessary to aid in the effective prosecution of the war or to correct gross inequities. * * * [Italics mine.]

Section 2 of the act begins:

> The President *may*, from time to time, promulgate such regulations as may be necessary * * *; and *may* exercise any power * * * conferred upon him by this act through such department, agency, or officer as he shall direct. [Italics mine.]

All of the above powers have been exercised. The day after the act of October 2, 1942, was passed, the President issued the general order contemplated by the statute. Among other things, in this order (Executive Order No. 9250), the President created the Office of Economic Stabilization, with a Director at its head. Justice James F. Byrnes agreed to lay aside the judicial robes and the life tenure of the Supreme Court to accept the responsibilities and duties of that Office.

Executive Order No. 9250 provided that—

> no increases in wage rates, granted as a result of voluntary agreement, collective bargaining, conciliation, arbitration, or otherwise * * * shall be authorized * * * unless the National War Labor Board has approved. * * *

In the next paragraph standards were provided for the discretionary wage adjustments to which the statute refers.

Experience proved the standards too liberal. As a result, the President, on April 8, 1943, issued a new general order (Executive Order No. 9328). At the time of issuing this order the President said:

> To hold the line we cannot tolerate further increases in prices affecting the cost of living or further increases in general wage or salary rates except where clearly necessary to correct substandard living conditions. The only way to hold the line is to stop trying to find justifications for not holding it here or not holding it there.
>
> No one straw may break a camel's back, but there is always a last straw. We cannot afford to take further chances in relaxing the line. We already have taken too many.

This hold-the-line order set more rigorous standards for wage increases than Executive Order No. 9250. In the same order the President, as authorized in the act of October 2, 1942, delegated his powers under that act to the Director of Economic Stabilization.

It was thought by some that the President's hold-the-line order might not permit wage adjustments in isolated plants straggling behind the prevailing wage level in a local community. As a result, Justice Byrnes, on May 12, 1943, issued a directive to permit purely local adjustments by plants whose wages were below the minimum level of sound and tested wage rates in a particular area, and to clarify certain applications of the existing standards. That directive and the hold-the-line order prescribe the standards of the present wage-stabilization program. Beyond those standards, there are no permissible wage increases.

II. The Stabilization Act of October 2, 1942, does not exempt railway employees or any other group of employees. Returning to the language of the act:

> The President is * * * directed * * * to issue a general order stabilizing prices, wages, and salaries. * * *

The statute does not say that all wages are to be stabilized except those of butchers, bakers, and candlestick makers. The statute does not say that all wages are to be stabilized except those of railway workers. The statute simply provides that wages and salaries are to be stabilized.

The act of October 2, 1942, is only four pages long, and less than that, of course, has application to the issues here. I invite you to read it. You will find no direct or indirect reference to railway workers. The act neither exempts railway workers nor provides that their wages are to be stabilized under any different rules than those applicable to other workers.

A wage increase for any group of workers, irrespective of how the wage increase came to be proposed, must meet the requirements of the wage stabilization program. If this were not so, it would be unfair, and if this were not so, there would soon be sufficient inroads to nullify wage control. The fact that all proposed wage increases, no matter what group of workers is affected, must pass the standards of the wage stabilization program, cannot be overemphasized; otherwise, the wage stabilization program would be but an empty gesture.

Until the present difference of opinion developed, no one in the Government and no one representing either the employees or the employers—including Dr. Leiserson, Mr. Harrison, and Mr. Jewell—ever seriously questioned the proposition that railway wage adjustments must be squared against the standards of the wage stabilization program. The only questions were how it was to be done and who was to do it.

As Mr. Jewell told you Monday, the President, on February 4, 1943, by issuing Executive Order No. 9299, disposed of these problems. I wish to quote rather extensively from that order—9299.

There was a question as to what 9250 did so far as the railway workers were concerned. It was contended, and I think it was rather clear, that the railway workers and their claims, would have gone before the National War Labor Board for adjudication. The railway workers and their representatives did not want to take that course. They had had legislation through the years affecting the determination of their disputes, and they did not want it to go before the War Labor Board, and as I understand it, they requested and implored that the procedures of the Railway Labor Act be utilized.

There was no claim then or now, as I understand their testimony, that they were without the stabilization program. They did not want the National War Labor Board to pass upon their claims. They wanted to utilize the procedures of the Railway Labor Act, so 9299

was drafted; 9299 followed 9172 which had been issued back in May 1942, in which the National Railway Labor Panel, which is an entirely different instrument from the National Mediation Board, was authorized by Presidential order. Of course that was after war had been declared and it provided that the Chairman of the National Railway Labor Panel should create emergency boards.

Now, reading from Executive Order No. 9299, we will see whether the railway employees were exempted from the Executive order. We will see what was in the mind of the President of the United States when he executed this order, and we will see that the railway workers received in this order the consideration of the Economic Stabilization Director in revewing the recommendations of the Emergency Board, rather than having their issues determined by the National War Labor Board. Now quoting from 9299:

> No increases in the wage rates or salary of any employee subject to the provisions of the Railway Labor Act, whether granted as a result of voluntary agreement, collective bargaining, conciliation, arbitration, or otherwise * * * shall be made except in accordance with the provisions of this order.
>
> No carrier shall make any change in wage rates * * * unless notice of such proposed change shall have been filed with the Chairman of the National Railway Labor Panel * * * and shall have been permitted to become effective as hereinafter provided.
>
> If the Chairman of the National Railway Labor Panel has reason to believe that the proposed change, in wage rates or salary, may not conform to the standards prescribed in Executive Order No. 9250, or to the general stabilization program made effective thereunder, or to the directives on policy issued by the Economic Stabilization Director thereunder and the proposed change is not modified to conform to such standards, program, and directives, he shall designate three members of the Panel as an Emergency Board to investigate the proposed change and to report to the President.
>
> Copies of the report with recommendations made to the President by any Emergency Board under section 4 of this order shall be filed by the Board forthwith with the Economic Stabilization Director, the National War Labor Board, and the Commissioner of Internal Revenue. The Economic Stabilization Director may on behalf of himself or other departments and agencies concerned, report to the President the effect of the recommendations on the general stabilization program—

Now, I want you to get this, please—

> *unless and except to the extent that the Economic Stabilization Director shall otherwise direct, the recommendations of the Emergency Board in regard to proposed changes affecting wages and salary payments shall, upon the expiration of 30 days after the report is filed with the President, become effective.* [Italics mine.]

Under this machinery the responsibility falls on me, as Director of Economic Stabilization, to ascertain whether a proposed increase in rates of pay for railway workers is consonant with the prevailing standards of wage control. Following this procedure and exercising this responsibility, I found the proposed 8-cent across-the-board increase for the nonoperating railway employees to be inconsistent with the wage stabilization program.

III. The dispute procedures of the Railway Labor Act, like all other formal or informal labor-dispute procedures, are not affected by the Stabilization Act of October 2, 1942: The Railway Labor Act provides machinery to be followed in the resolution of railway labor disputes. The act establishes procedural rules of the game which are intended to bring labor disputes to an end without disrupting the Nation's railway service.

There are other statutes which provide procedural rules of the game where labor disputes are involved. One example is the National Labor

Relations Act. While this act does not have the elaborate step-by-step procedure which is to be followed, as does the Railway Labor Act, it has certain guaranties aimed at securing fair collective bargaining between the parties. Employer-employee agreements providing methods by which disputes are to be resolved are not uncommon.

The Stabilization Act alters none of these procedures. It merely requires that if an agreement, involving a wage increase is reached, the proposed increase be submitted to the appropriate administrative agency for approval under the standards of the wage stabilization program.

This point, I believe, has been overlooked by some who stress the Railway Labor Act. They assume that if a wage increase proposed at some stage of the procedure must be presented for approval to those responsible for administering the wage stabilization program, the Railway Labor Act has been thereby overridden or altered. This, of course, is not so.

The Stabilization Act does not amend the Railway Labor Act. Conversely, the Railway Labor Act has absolutely nothing to do with wage stabilization.

The Railway Labor Act was on the books long before there was a war and I hope it will be there long after wage and price control have passed from the scene. I helped put it there. The simple point is that under present abnormal conditions it is imperative to control wages. And so we have two laws which must be harmonized. A wage recommendation of an emergency board created under the Railway Labor Act must be squared with the wage-control standards prescribed under the Stabilization Act of October 2, 1942. If, for example, the parties agreed to a wage increase at the outset—talking about railway workers, the employees and employers, I mean if they agreed—so that the machinery of the Railway Labor Act never had to be called into play, that increase would have to be measured under the standards of the wage stabilization program.

That the Railway Labor Act still exists in its entirety is abundantly illustrated by this very case. In late September 1942 these brotherhoods served notice upon the carriers, in accordance with the Railway Labor Act, of a claim for a 20-cent per hour increase with a minimum wage of 70 cents per hour. Conferences, and later joint conferences, were held in accordance with the Railway Labor Act. When these conferences produced no agreement, the brotherhoods on December 18, 1942, invoked the services of the National Mediation Board under the Railway Labor Act.

Now, mind you, that was after the Stabilization Act was passed, when they invoked the services of the National Mediation Board under the Railway Labor Act.

Mediation was not successful. The Mediation Board then suggested, in accordance with the provisions of the Railway Labor Act, that the parties submit the case to arbitration. The brotherhoods declined, but requested, in accordance with the Railway Labor Act, the appointment of an emergency board.

Executive Order 9172 bares date of May 22, 1942. That is when the National Railway Labor Panel was set up and the creation of an emergency board by the Chairman of the National Railway Labor Panel authorized, and an emergency board was set up. We shall call this the first Emergency Board, the Sharfman Board.

The Emergency Board heard the dispute and made its report and recommendation to the President, all in accordance with the Railway Labor Act. A copy of the report was filed with me in accordance with Executive Order No. 9299—there have been so many reports filed, that that statement is in error. The copy of the report was filed with Justice James F. Byrnes, Director of Economic Stabilization, in accordance with Executive Order No. 9299. It was filed in May 1943 and the supplemental report was filed May 29, 1943. I had qualified as Director of Economic Stabilization. Possibly the original report was filed May 24 and the supplemental report was filed May 29. It is well to note at this point that from February 21, 1943, when the order was issued, until this hour, the railway labor organizations have admitted the validity of this order. That is Executive Order 9299. February 4, 1943, is the date on the mimeographed copy. It is my understanding that they specifically agreed that all Emergency Board recommendations should be subject to the Stabilization Director's review. I found that the Board's recommendation was not in accordance with the standards of the wage stabilization program and so, under section 5 of Executive Order 9299, I determined that it should not become effective. But on the record before me, it appeared, that all possible applications of the standards of the wage stabilization program had not been exhausted.

Realizing that the Morse Board (that is the Emergency Board which considered the wage claims originating in the summer of 1941) had been reconvened in late November 1941, when the brotherhoods repudiated its award and threatened to strike. I addressed an opinion to the Emergency Board, outlining the standards of the wage stabilization program and explaining why the general increase was not in conformity with that program but indicating that these workers might not be entirely foreclosed from wage increases.

My suggestions were never acted upon by the first Emergency Board because its members held the view that the Board had been dissolved. The Chairman of the National Railway Labor Panel likewise took this position. He, moreover, declined to designate a new emergency board, and the brotherhoods made no request for reconvening the old Board or appointing a new one.

Thereafter, for some time, an attempt was made by the parties to write a contract which might provide for wage increases approvable under the stabilization program. Such a contract would of course have to be presented to the Chairman of the National Railway Labor Panel under section 2, Executive Order No. 9299, and would have come to my office under the provisions of that order. Finally, a contract was written August 7, which incorporated an 8-cent general increase, but which carried the significant provision that it was subject to existing requirements of law. The parties were confident that there was no use in resubmitting the same proposed wage increase to me. Now they are submitting it to you. Although it appeared that these workers were entitled to some wage increases under the standards of wage control, it appeared that existing machinery was inadequate. Hence the President by Executive order (No. 9388) created a new emergency board.

The President in that order stated that it was necessary to provide further machinery to adjust the nonoperating employees' claims in accordance with the stabilization program, and that a board was being created to recommend the wage adjustment that should be made

within the limitations of the Stabilization Act, the Executive order thereunder, and my opinion of June 30, 1943. He further stated that the Board was to take into consideration the recommendations which had been made for the operating employees.

Now, I might say that that was not the first Special Emergency Board which the President had set up. One was set up to consider the *Pacific Electric case* and they made a report and it was approved. That was after the recommendation of the first Emergency Board had been disapproved.

Thereafter, this second Emergency Board, the Shaw Board, recommended wage increases of 10 to 4 cents with the larger increases going to the lower-paid employees. I found these recommendations to be in conformity with the substandard criterion of the stabilization program and its corollary permitting the minimum necessary increases in the interrelated job classifications.

In this matter all of the applicable machinery of the Railway Labor Act was utilized—now, that is the point I want to emphasize—all of the applicable machinery of the Railway Labor Act was utilized, and in my view it could have served to bring a second recommendation before me. When it was not so used, the President stepped into the breach. The wage adjustments proposed by the Second Emergency Board have been approved. The administration has settled the matter. The brotherhood representatives, however, have concluded that the standards of wage stabilization are too rigorous for them, and they have come to Congress for special treatment.

IV. A wage increase agreed to by employers and employees, like any other proposed wage increase, must be measured against the wage stabilization program: The Stabilization Act provides that wages are to be stabilized at September 15, 1942, levels and that certain adjustments may be made. Plainly, these adjustments, if any, must be made according to definite standards prescribed by the President or his delegate.

In these times there are terrific pressures to increase wages. Those economic forces which usually tend to hold wages down are for the most part inoperative. With manpower shortages and with production in high gear, every drive is to push wage rates higher and higher That is why we have wage control.

If wage increases agreed to by contract automatically become effective, the wage stabilization program would soon be a nullity; it would exist only on paper.

During the past year the War Labor Board had about 109,000 voluntary applications for wage adjustments. About 25,000 of these were joint employer-union applications; the rest were employer requests where no union was involved. During the same period there were about 5,000 dispute cases. Even in most of these the employer was ready to grant some increase. It can readily be seen that the Government is asked to approve nondispute wage applications far oftener than it is requested to resolve disputes.

With this in mind, it is well to remember the language of Executive Order No. 9250:

> No increase in wage rates, granted as a result of voluntary agreement, collective bargaining, conciliation, arbitration, or otherwise * * * shall be authorized * * * unless the National War Labor Board has approved. * * *

Similarly, the language of Executive Order No. 9299 reads:

> No increases in the wage rates or salary of any employee subject to the provisions of the Railway Labor Act, whether granted as a result of voluntary agreement, collective bargaining, conciliation, arbitration, or otherwise * * * shall be made except in accordance with the provisions of this order.

The fact that the railroads and the unions agreed on August 7 to the wage increase proposed by the Emergency Board on May 24 in no way affects its compatability with the wage stabilization program.

V. A general industry-wide across-the-board increase, in any amount, for the nonoperating railway employees is violative of the wage stabilization program: I told the Senate committee that if this resolution were passed Congress would have broken the Little Steel formula. Under the present stabilization program the only standard which permits a general industry-wide across-the-board increase is the Little Steel formula. These railway workers received in December 1941 an adjustment actually greater than the Little Steel formula would now permit—slightly greater. In order to make this point perfectly clear I shall describe to you the standards under which we now operate.

As I already stated, the standards of the present wage stabilization program are those prescribed by the President's hold-the-line order and Justice Byrnes' May 12 directive. These standards permit wage increases: (1) To correct substandards of living; or (2) within the Little Steel formula; or (3) in the form of promotions, reclassifications, merit increases, or incentive wages, if production costs or prices are not increased; or (4) to the minimum sound and tested going rate of comparable labor in similar plants in the particular labor-market area; or (5) to a point between the minimum and maximum going rate for comparable labor in similar plants in the particular labor market area if the critical needs of war production make such an adjustment imperative; or (6) to interrelated job classifications to the minimum extent necessary for maintaining productive efficiency in cases where certain other adjustments have been made.

Those are the standards of the present wage stabilization program except for the general rule, which is so often forgotten, that there are to be no wage increases.

A consideration of these standards will show that the only one which permits a general across-the-board industry-wide wage increase is the Little Steel formula. The substandard test is limited to those who are receiving substandard wages. The merit or incentive wage plans are limited to those who produce under such plans. The minimum sound and tested going rate test is limited to comparable work in similar plants in the particular community. The interrelated job classification test is used only to make transitional adjustments where other adjustments have already been made.

The nonoperating railway employees cannot secure any wage adjustment under the Little Steel formula. Their increase in December 1941 was 15.6 or 06.35 percent, depending upon which of two methods is used in computing the increase. The workers make no claim under the Little Steel formula. The Emergency Board expressly stated that under the proper application of the Little Steel formula further adjustments could not be made. That application of the Little Steel formula is in conformity with the method followed by the National War Labor Board in countless cases. That application meets with my approval.

In this connection I mention the suggestion in the Senate debate that some of these workers had not received their Little Steel adjustment. That is the only reason I mention Little Steel, because of the misunderstanding about the way you compute it. Some said that some of the workers had not received their Little Steel adjustment. Such a statement can only be made if it is predicated upon the unsound position that the nonoperating group should be broken up into separate crafts and the 15 percent adjustment computed for each craft. Such a method would show that the December 1941 10-cent increase was not quite 15 percent for the highest-paid workers. But this method is contrary to the claim of the workers, contrary to the express position of the Emergency Board in their case, contrary to innumerable expressions of the National War Labor Board, in short, contrary to the Little Steel formula itself.

No one has worked out or suggested any incentive or merit plan for these workers. The minimum sound and tested going-rate standard is not applicable to these workers, for the essence of that test is local, not national. The unions probably have no desire to break up their national agreement for the sake of securing a few local increases. If they do so desire, they can always make application.

The only remaining, permissible adjustment under the wage stabilization program is the substandard test with its corollary of tapered increases in the interrelated job classifications. It is under this standard that a wage adjustment of 10 cents for the lowest-paid workers and smaller increases for the higher-paid workers has been approved.

In this connection I wish to make reference to the several statements suggesting that there was a Vinson plan to settle this case. I have no plan except the simple plan of preserving equality under the law. When I disapproved the original across-the-board 8-cent increase I suggested no figures, no details of how the wage adjustments might be made, except to indicate the principles which govern under the law.

Later the second Emergency Board, appointed by the President, found in its best judgment that the 121,140 workers receiving 40 to 46 cents, inclusive, should be raised 10 cents; 232,500 workers receiving 47 to 56 cents, inclusive, should be raised 9 cents; 190,466 workers receiving 57 to 69 cents, inclusive, should be raised 8 cents; 197,686 workers receiving 70 to 79 cents, inclusive, should be raised 7 cents; 147,961 workers receiving 80 to 89 cents, inclusive, should be raised 6 cents; 126,250 workers receiving 90 to 96 cents, inclusive, should be raised 5 cents; 81,176 workers receiving 97 cents or over should be raised 4 cents.

The operating employees who, for the most part, receive appreciably higher wages than the nonoperating employees, had previously been awarded a 4-cent increase under the Little Steel formula. When this proposal came to me I found it to be consonant with the stabilization program. I, therefore, approved it. But it is no more a Vinson plan than any other wage adjustment in the country, within the wage stabilization program, is a Vinson plan. If the advocacy of equality and adherence to law is so unusual that it must be termed a "Vinson plan," I am not unhappy to receive the accolade.

In this connection, I should like to discuss the contention that, since the general 8-cent increase means only some eighteen million more dollars per year than the sliding scale of 10 to 4 cents recommended by the Second Emergency Board, and I have found the latter

to be lawful, the former must also be noninflationary. In dealing with this problem, I did not undertake to determine exactly how many dollars in themselves would be inflationary. I was governed entirely by the simple, all-important issue that the first recommendation did not meet the standards of the law and that the second recommendation did.

There have been some references to the correction of gross inequities and the effective prosecution of the war. These words are in the statute. The Congress authorized the President to make adjustments which would correct gross inequities and which would aid in the effective prosecution of the war. These words may mean little or much, depending upon what standards are developed to define them, and depending upon their application in case after case. To interpret this general language, the President set forth certain standards in Executive Order No. 9250. These standards were found to be too liberal. Too many adjustments were still being made. It is significant to remember that there has been a good deal of congressional criticism of the fact that wage stabilization came too late.

The President, through the winter of 1942–43, became convinced that the standards of Executive Order No. 9250 were too generous. And so, on April 8 he issued the now historic "hold the line" order. The standards for wage adjustments there set forth were more rigorous.

They are the standards which apply to all workers. So long as I have the power to say so, they shall apply without exception. You are asked to say that they shall apply to all save nonoperating railway employees.

Sometimes I covet the simple faith of some that this wage case can be isolated and made to set no example, the simple faith that in one case out of the beneficence of the legislative heart an alleged inequity can be corrected with a guaranty to quarantine the ultimate effect of the action. One who has had the experience which I have had for the past 6 months can understand that while such a simple faith may be refreshing for the soul it is a retreat from reality.

If it were not quite so serious I could be amused at the statements which have attempted to categorize this case as the only one of its kind. First, it is said that it is a railway case and the chastity of the Railway Labor Act must be protected. But if the railway workers secure an exemption from the stabilization program others will follow their lead.

Then it is said that in this case there need only be approval of what an Emergency Board did or of what the parties agreed to do. It is abundantly clear from the past year's history of the War Labor Board that we cannot merely rubber stamp what the parties agreed to do. And for those who say that they shall only rubber stamp what the first Emergency Board did, I point out that there was also an Emergency Board in the operating case which did what it did only because of my opinion in the nonoperating case. The Emergency Board in the operating case clearly indicated that it would recommend more than the Little Steel formula adjustment of 4 cents if it had not been for my opinion disapproving the 8-cent nonoperating recommendation. An additional 4 cents per hour for the operating employees would make a $85,000,000 increase.

Those who support this legislation assert confidently that no increase in freight rates is involved. Unfortunately, the Interstate

Commerce Commission and not the proponents of this legislation is responsible for fixing freight rates.

Even if the Commission should determine that no increase was necessary, the railroads might with some propriety urge that the Congress do for them that which it had so generously done for their employees. In view of the precedent set by this legislation, there is no guaranty that their plea would fall upon deaf ears. Therefore, this legislation not only threatens the stability of our wartime wage structure; it threatens as well the stability of our rate structure and our price structure.

Every consideration of prudent statesmanship, of the separation of powers, of general legislative policy, of constitutional propriety, of economic wisdom, and above all, of equal justice under law, dictates the rejection of this unprecedented proposal. Only a misunderstanding of the issues involved or the political power and might of those who demand it can dictate a contrary view.

The CHAIRMAN. Any questions?

Mr. HALLECK. Mr. Chairman, I have a question if there are no others desiring to inquire.

The CHAIRMAN. Mr. Halleck.

Mr. HALLECK. Judge Vinson, I am not quite clear in my mind as to the relationship between the War Labor Board and your Office.

I notice in your statement that reference is made to the Executive order which refers to the fact that no wage increase shall become effective unless it is approved by the War Labor Board.

Judge VINSON. That language was in Executive Order 9250, as I recall it, and subsequent to that time Executive Order 9299 issued, which made it abundantly clear that the claims of the railway workers did not go through the National War Labor Board; that they came to the Office of Economic Stabilization for review.

Mr. HALLECK. Has the matter of this particular wage increase for the railway employees ever been before the War Labor Board?

Judge VINSON. No, sir.

Mr. HALLECK. Did it originate before or after that subsequent order to which you have referred, Executive order to which you have referred?

Judge VINSON. It originated, as I understand it—and gentlemen are present here who can check me—in September, 1942. That was subsequent to the Executive order which created the National Railway Labor Panel and provided for the creation of an Emergency Board by the chairman of that National Railway Labor Panel for the consideration of railway disputes; but it was initiated prior to the passage of the Stabilization Act of October 2, 1942, and, of course, prior to the issual of Executive Order 9250 and Executive Order 9299.

Mr. HALLECK. Now, as I understand it, the War Labor Board was originally created by the President without specific authority from the Congress and then subsequently was legalized, if it needed legalization, by the War Labor Disputes Act. Is my understanding in that regard correct?

Judge VINSON. Yes; the Smith-Connally Act did use language recognizing its existence under the act.

Mr. HALLECK. So that we in effect have the Railway Labor Act, the Stabilization Act, and the War Labor Disputes Act, all of which might be said to have a bearing on this controversy.

Judge VINSON. Well, as I see it, Mr. Halleck, the Railway Labor Act and procedures under it never settled the wage disputes. That procedure was in existence before there was a Stabilization Act. When the action was taken under the Railway Labor Act, the Board or the Emergency Board, made recommendations they were not binding. They are not binding now. The recommendation of the Morse Board, in November or December 1941, as I recall it, allowing a 9-cent increase for the nonoperating group was not binding.

They made their recommendations to the President. It was not binding.

Mr. HALLECK. You mean not binding upon the Government or the carriers?

Judge VINSON. Not binding upon anybody; not binding on the carriers; not binding on the brotherhoods; the brotherhoods declined to accept the recommendation of the Morse Board. The Morse Board was called into being, reconvened, and as I understand it, had hearings for 2 or 3 days as an emergency board and reaffirmed its position that the increase should be 9 cents an hour to the nonoperating group and then adjourned, and thereafter it was set up as a mediation board, or as an arbitration board, and finally worked it out, but it was not an emergency board. It finally worked out the comprise of 10 cents an hour.

Mr. HALLECK. I am frank to confess that I am a little confused in trying to harmonize all these.

Judge VINSON. It is enough to confuse you, you have got so many balls in the air.

The point I make in regard to your question—it is a pertinent question—it goes right to the heart of the controversy, because many sincere people think that the National Railway Labor Act having been said to have come into existence to settle labor disputes and having been heralded as an act to settle labor disputes, that it has teeth in it and when you go through its processes, the dispute is settled; but that simply just is not so.

Mr. HALLECK. I recognize that, but here is the thing that is running through my mind. I have generally understood, maybe incorrectly, that the War Labor Board is the tribunal which implements the wage stabilization operations required by the act of Congress.

Judge VINSON. Just in part. For instance, you have wages and salaries of some kinds that have to go to the Commissioner of Internal Revenue; go to the Treasury and to the Commissioner of Internal Revenue. Then, you have certain wages that first clear through the Wage Adjustment Board, and then for railway workers, of course, you have the Emergency Board.

Mr. HALLECK. I understand that, but it is not true that the Little Steel formula was designed by the War Labor Board originally?

Judge VINSON. Yes, sir.

Mr. HALLECK. And that it is part and parcel of the wage-stabilization program as of today?

Judge VINSON. Yes, sir.

Mr. HALLECK. What I am getting at——

Judge VINSON (interposing). I think it is fair to say that after that was done, after the War Labor Board decided what the Little Steel formula was, Congress passed the act of October 2, 1942, and subsequent to that time, Executive Order 9328, the hold-the-line order, and the Byrnes directive of May 12; they incorporated the Little Steel formula as one of the standards under which wage increases could be granted.

Mr. HALLECK. What I am trying to get at, Judge Vinson, is this—and maybe you can clarify it: When we passed the War Labor Disputes Act, we specifically exempted matters coming within the purview of the Railway Labor Act.

Now, what I am wondering about is whether or not that could be construed to go so far as to indicate the legislative intent that in respect to disputes involving railway labor and also as to the effect of the settling of such disputes on the stabilization program, it was the intention of the Congress that contracts or agreements ultimately entered into as a result of the invoking of the procedures under the Railway Labor Act, could be said to be conclusive as against any other provision of law.

Judge VINSON. Well, I do not think that the Smith-Connally Act—that is your War Disputes Act.

Mr. HALLECK. Yes.

Judge VINSON. Affects in the slightest degree railway workers coming under the wage-stabilization program.

Mr. HALLECK. Are there in the Railway Labor Act, and its procedure, ways and means by which not only disputes may be settled, but the interests of the Nation may be preserved insofar as the fight against inflation is concerned?

Judge VINSON. I don't just get your question.

Mr. HALLECK. Suppose we just amended the price-control law, which is the act stabilizing wages, the price of farm products, and everything else——

Judge VINSON. Yes.

Mr. HALLECK. By saying that insofar as the wages of railway workers are concerned they shall not be within the purview of the act.

Judge VINSON. Of October 2, 1942?

Mr. HALLECK. That is right. What would be your view as to whether or not the procedures under the Railway Labor Act would be such as to protect the interests of the Nation in the efforts against run-away inflation?

Judge VINSON. In my judgment, it would have no effect at all, because when you come out at the end of the procedures under the Railway Labor Act, as at present written, you just haven't got an enforceable contract.

Mr. HALLECK. As I understand it, there is no compulsory conciliation——

Judge VINSON. If I understood your question correctly, they would be without the provisions of the Stabilization Act of October 2, 1942, and there is no provision in the Railway Labor Act that limits the wages that can be agreed upon.

Mr. HALLECK. As I understand your statement, you take the view that this is an administrative responsibility devolving upon you as the appointee of the President of the United States, the responsibility being yours to determine whether or not a certain amount shall be allowed in compliance with the basic acts of Congress as they have been implemented by Executive order?

Judge VINSON. That is correct. Under the Executive orders there were delegated to the Office of Economic Stabilization all of the

powers the President had under the act of October 2, 1942. I say very frankly to you that if the Congress of the United States desires to amend the Stabilization Act to provide a formula or formulas of whatever nature, as long as I am in my present position I will do what Congress tells me to do.

Mr. HALLECK. You take the position, if I get you correctly, that this represents an invasion of a purely administrative duty and responsibility?

Judge VINSON. Yes, sir; and it is doing it for a particular group.

Mr. HALLECK. I take it it would be within the province of the Congress, if it so determined, to exclude railway wages.

Judge VINSON. Yes, sir; there is no question in my mind about that.

Mr. HALLECK. Well, I suspect that is right.

Judge VINSON. They have got power; there is no question in the world about it.

Mr. WOLVERTON. I have a question I would like to ask, but I understand Mr. Winter would like me to yield to him.

Mr. WINTER. I asked if you would yield, simply because I have to leave. I believe, Judge Vinson, you take the position that the carriers take in the case of the nonoperating employees, that the 8-cent-an-hour increase violates the President's hold-the-line order, and also the Little Steel formula, is a valid one.

Judge VINSON. That is correct—the Little Steel formula.

Mr. WINTER. The thing I cannot get into my mind is, if that 8-cent-an-hour increase breaks the Little Steel formula, explain to me how and why the 4- to 10-cents-an-hour sliding scale increase you have agreed to does not break it.

Judge VINSON. It is not a question of dollars, Congressman.

Mr. WINTER. What is it?

Judge VINSON. Just a question of whether or not it meets the standards laid down. That is all there is to it.

Mr. WINTER. Where does it break down that standard?

Judge VINSON. It is a question of the Little Steel formula—they admit, and that is a strange thing that I have difficulty in reconciling, it is admitted by everyone who has studied the case that they are not claiming that 8-cent increase under the Little Steel formula.

Mr. WINTER. I know, but——

Judge VINSON. Now, the point is, if they are not claiming it under the Little Steel, according to my views, the only standard that would permit an increase is the substandard criteria, coupled with the interrelated job classification.

Mr. WINTER. As I get it, you stated that if this 8-cent-an-hour across-the-board increase was allowed, it would break the Little Steel formula.

Judge VINSON. I said that, and I repeat it.

Mr. WINTER. I would like to have you put something in the record to show why the sliding scale recommended now does not break the Little Steel formula.

Judge VINSON. It is an entirely different thing.

Mr. WINTER. I just cannot reconcile the two.

Judge VINSON. It is entirely different. I think you will see that when you level on it.

Mr. WINTER. You set out in your statement these different classifications upon which you say you are permitted to make increases.

No. 3. Increases in wages can be made if production costs or prices are not increased.

Judge VINSON. Let us read that whole thing.

Mr. WINTER. I did read the whole thing.

Judge VINSON. Let's see if you did.

Mr. WINTER. It is on page 6. You set out these different paragraphs there in which you say wages may be increased. For instance, to correct substandard living conditions, or within the Little Steel formula, or if production costs or prices are not increased.

Judge VINSON. Wait just a second. I can't find that.

Mr. PRIEST. It begins at the bottom of page 6, Judge, and is continued on to the next page.

Judge VINSON. I didn't think you had it all, Congressman [reading]:

These standards permit wage increases: No. 3 in the form of promotion, reclassification, merit increases or incentive wages if production costs or prices are not increased.

Mr. WINTER. All right—merit increases.

Judge VINSON. This certainly is not a merit increase case.

Mr. WINTER. What is it?

Judge VINSON. It certainly is not a merit increase, as that term is used. They make no claim it is a merit increase case.

Mr. WINTER. Well, those that have talked to me have made that claim.

Judge VINSON. Well, they say this, they say there is merit in their claims, but they do not base it upon being a merit increase case.

Mr. WINTER. Would it be possible for you to put in the record the difference between the 4- to 10-cent increase, and the reason it does not violate the Little Steel formula, and why the 8-cent increase does?

Judge VINSON. Well, if I haven't, I will try to make it clear. I had hoped to make that clear.

Mr. HALLECK. Will you yield to me for just a moment?

Mr. WINTER. If Mr. Wolverton will. He yielded to me.

Mr. HALLECK. I listened very carefully to Judge Vinson's statement, and whether it is right or wrong, as I understand it, he takes the position that the Little Steel formula permits a 15 percent increase, a broad increase. Now, then, it is not violative of the Little Steel formula, if in addition to the 15 percent increase, certain other increases are granted to correct gross inequities or to permit the effective prosecution of the war.

Judge VINSON. Or you could have an increase where Little Steel would not grant anything. And that is this case. Under the Little Steel everybody agrees there could be no increase, but under the substandard test and the interrelated job classification it is my view, as I said, you could have an increase.

Mr. WINTER. I agree with Mr. Halleck that statement is correct. But isn't this a gross inequity?

Judge VINSON. I refer to that. I will also give you my statement regarding the gross inequity in the opinion that I handed down. I think it is fair to say, if you will read the report of the first Emergency Board, and the supplemental report, that that was what they were aiming at. In my statement, dated June 30, to the first Emergency Board, I made this statement:

The power to correct gross inequities is allegedly drawn from the language of the act of October 2, 1942, which permits an adjustment of wages designed "to correct gross inequities, or to aid in the effective prosecution of the war." This authority, however, is delegated by the statute to the President, and is vested in other agencies of the Government only as the President may direct or delegate. The President did not, however, write a blank check. In the "hold the line" order, 9238, he provides standards for these adjustments. This order directs the agencies exercising authority under Executive Order 9299, the Emergency Board, to approve no further increases in wages except adjustments (*a*) clearly necessary to correct substandards of living; (*b*) in accordance with the Little Steel formula; (*c*) for job reclassification or merit increases if they do not (1) increase production costs, (2) provide a basis for increase in prices.

The "hold the line" order moreover authorized the Economic Stabilization Director to exercise all the powers conferred upon the President by the act of October 2, 1942. Exercising this power, the Director issued his directive of May 1942, which provided (1) that tested going rate brackets for recognized categories of employment in various labor markets may be established and adjustments made to the minimum in those brackets; (2) maladjustments in the cost of living may be considered only (*a*) under the Little Steel formula; (3) to correct substandards of living, (4) if adjustments are made under (2) then adjustments in immediately related job classifications * * * may be considered.

Mr. WOLVERTON. Judge Vinson, you have stated that all powers granted to the President under the act of 1942 have been delegated to you; is that correct?

Judge VINSON. Right.

Mr. WOLVERTON. In answer to a question by Mr. Halleck, you made the further statement that it is in the power of Congress to change that act, so that the railway labor could be exempted from its provisions.

Judge VINSON. Yes, sir.

Mr. WOLVERTON. The confusion that was in the mind of Mr. Halleck, and that prompted him to ask the questions which he did, is likewise in my own mind, and it was further accentuated by the action that was taken in the coal miners' case. How was that accomplished without any change in the law? Was it based upon a different character of directive by the President, or in what way was it possible for that increase to have been granted without approval on your part, or any action of Congress in changing the law or in passing legislation such as this which is now before us?

Judge VINSON. Now you are speaking of the wage increase?

Mr. WOLVERTON. Yes.

Judge VINSON. That was approved?

Mr. WOLVERTON. Yes.

Judge VINSON. The contract that was executed between Mr. Ickes and Mr. Lewis?

Mr. WOLVERTON. Yes.

Judge VINSON. And that then went to the War Labor Board and was approved by the President. Is that right?

Mr. WOLVERTON. Yes. I am interested in knowing how that result was attained without any change in the act of 1942, and without it having your approval.

Judge VINSON. Well, it is my understanding that the language of the Smith-Connally Act, which was passed after the Stabilization Act was passed, said that a contract, where the United States had taken over operation, after the War Labor Board approved it, had to be approved by the President of the United States. And I would like to insert here the language of that statute. There was no Executive order conveying to me any powers other than that vested in the

President of the United States under the act of October 2, 1942. Congress having spoken since the Stabilization Act, and saying it had to be approved by the President of the United States, and there not havng been any delegation of that power—this is the first time I have thought of it in that vein, and I would like to level on it, and if I am wrong about it, withdraw my remarks—but I don't know that there is any language in the Smith-Connally Act specifically directing him or authorizing him to delegate functions under that act to another. Whether the President under his general powers could exercise that authority through an agent is another matter.

Mr. WOLVERTON. Then it is difficult for me——

Judge VINSON. I am sure he thought he was doing what Congress told him to do in doing it that way. That is my judgment, that they were complying with Congress and that was the way Congress wanted it.

Mr. WOLVERTON. None of these acts made any special exemption of miners?

Judge VINSON. No; but that was all contracts, Mr. Wolverton.

Mr. WOLVERTON. I beg pardon?

Judge VINSON. All contracts that were negotiated when the Government seized plants. That applied to all contracts between the Government and the employees, and it provided they had to be approved by the War Labor Board and, as I recall it, by the President of the United States.

Mr. WOLVERTON. Then the law does make some provision for the settlement of situations that may arise with reference to increased wages that does not come under your juridsiction?

Judge VINSON. Yes; in a number of instances.

Mr. PRIEST. Will the gentlemen yield?

Mr. WOLVERTON. Yes.

Mr. PRIEST. However, it applies generally, so far as the Smith-Connally Act is concerned, only to increases involved in contracts where the Government has taken over a plant, a mine, or some operation?

Judge VINSON. That is my view.

Mr. PRIEST. Only in case it is taken over by the Government?

Judge VINSON. Yes.

Mr. O'HARA. I would like to say that is not my understanding.

Judge VINSON. In regard to the approval of these contracts by the President—I will limit my statement to that, because that was the question posed, as I got it——

Mr. WOLVERTON. May I pursue the thought just a little further? In looking quickly over the Smith-Connally Act I find it in this statement:

In making any such decision the Board shall conform to the provisions of the Fair Labor Standards Act of 1938, as amended, the National Labor Relations Act, the Emergency Price Control Act of 1942, as amended, and the Act of October 2, 1942, as amended, and all other applicable provisions of law.

Does that seem to be broad enough to bring that within your jurisdiction?

Judge VINSON. That is a question of how the Board operates. What does it say about that contract? "After it has been approved by the Board." Doesn't it say that it must then be approved by the President?

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Mr. HALLECK. I just glanced over it, and I haven't been able to locate it yet.

Judge VINSON. Well, I am sure it is there.

Mr. WOLVERTON. Clause (e) of the same act states:

> The Board shall not have any powers under this act with respect to any matter within the purview of the Railway Labor Act, as amended.

So there was special reference to the Railway Labor Act. But having in mind that the one main purpose in the establishment of the Office of Economic Stabilization was to prevent inflation with all of its dangers, it is difficult for me to understand how it is possible for you to accomplish that purpose when you do not have jurisdiction over the whole subject.

Judge VINSON. I grant you it is difficult at times—or, maybe I should say it is difficult at all times. Let me read you section 5 of the War Labor Disputes Act:

> When possession of any mine, plant, or facility has been or shall hereafter be taken under the authority of section 9 of the Selective Training and Service Act of 1940, as amended, the Government agency operating such plant, mine, or facility, or the majority of the employees of such mine, plant, or facility, or their representative, may appeal to the National War Labor Board for a change in wages or other terms or conditions of employment in such plant, mine, or facility, * * * and such Board may order any changes in such wages or other terms or conditions which it deems to be fair and reasonable and not in conflict with any act of Congress or any Executive order issued thereunder. No other such order of the Board shall be complied with by the Government agency operating such plant, mine, or facility.

Mr. WOLVERTON. Then it is your opionin that the act specifically gives the President the right to approve an agreement that is made under the circumstances you have just read?

Judge VINSON. It seems to me that it is clear.

Mr. WOLVERTON. Then, going a step further, in view of the fact that that authority that you have as Director of Economic Stabilization arises by virtue of the directive that was issued by the President, would it not be possible for the President to hvae made an order or a directive that would have exempted disputes or wage increases for the railway brotherhoods? In other words, I have in mind that if he had the power to give you the authority he did, then he had the power to place a limitation on the authority he had given to you.

Judge VINSON. In my judgment——

Mr. WOLVERTON. And if a directive had been made by the President that exempted this class of cases, then it would not have been necessary to come before the Congress.

Judge VINSON. In my judgment, if he had excluded the railway workers from the wage stabilization program, he would have failed to comply with the act of October 2, 1942.

Mr. WOLVERTON. Do you feel that the powers that were granted to him under the act of 1942 were of the strait-jacket character, that he had no discretion to exercise other than to do it entirely in the way in which the directive creating your office was issued?

Judge VINSON. I am not talking about the directive, or the Executive order creating my office. I am talking now about the language of the act of October 2, 1942, directing the President to stabilize prices and wages, and I am saying that had he exempted the railway workers or mine workers or shipyard workers, he would not have been complying—not with powers granted, but with the express direction of the

Congress to do that thing. Congress told the President of the United States to stabilize wages and prices.

Mr. WOLVERTON. Then it is your opinion that the Smith-Connally Act repealed that general power that had previously been granted by the Congress to the President?

Judge VINSON. No. No, I don't think that.

Mr. WOLVERTON. Well, if it is as broad as you have indicated, it is difficult for me to understand how a different result affecting wages could be accomplished in the case of the miners than that which we are seeking in connection with the brotherhoods.

Judge VINSON. Of course, the act of October 2 did not speak in terms of the Economic Stabilization Director. The act of October 2 directed the President—but specifically gave him the power to delegate to an agency—now he delegated it to the Office of Economic Stabilization—power under the 1942 act. But when you come to the Smith-Connally Act, that was passed subsequent to the stabilization Act.

Mr. WOLVERTON. That was the reason I asked if it, in your opinion, did repeal the provisions of the previous act.

Judge VINSON. Well, section 5 deals with a specific character of transactions, that of seized plants, and, in any event, it was construed that Congress wanted the President of the United States—at that time he had an Economic Stabilization Director—it was construed the Congress wanted the President of the United States to approve that kind of contract.

Mr. WOLVERTON. Let us approach it now from a different angle. Suppose the Smith-Connally Act had not been passed, would the directive that then created your office have given you jurisdiction over the miners' case, as well as that you now assume over the railway labor?

Judge VINSON. Oh, yes; there isn't any doubt in my mind about it.

Mr. WOLVERTON. It would, or would not?

Judge VINSON. It would have. It would have come to my office.

Mr. WOLVERTON. Then the passage of the Smith-Connally Act did, in effect, repeal the provisions of the Stabilization Act under the conditions which were presented in the case of the miners?

Judge VINSON. I think that what it did was to remove—or I so construe—to remove the jurisdiction of the Office of Economic Stabilization, as set up under Executive order, from a consideration of those special cases where you had seized plants, mines, or facilities. I would rather put it that way.

Mr. HARRIS. Will the gentleman yield at that point?

Mr. WOLVERTON. Yes.

Mr. HARRIS. Judge, that was necessary, or the thought or intention behind that was to set up the machinery whereby when a strike occurred, that you, as the Stabilization Director, could not do anything about it.

Judge VINSON. I had no power.

Mr. HARRIS. It set up machinery whereby that could be met?

Judge VINSON. As I understand it, the power of seizure is under that statute, and when Congress wrote the Smith-Connally Act, it said that is what it wanted done, and it was construed to be the meaning of the Congress that that contract would have to be approved by the President of the United States. And that is all there is to it.

Mr. HARRIS. In effect, if the gentleman will permit, what it does is, if we assume that this controversy keeps going and you as Stabilization Director refuse any increase for the railroad employees, nonoperating employees, and they insist that something be done, and that controversy goes along, we will assume, until a strike would occur, and then the War Disputes Act is the machinery set up by the Congress to handle the situation that may develop.

Judge VINSON. So far as the language goes. I would't want to go so far as to say that there is nothing at all that might come up. My attention has been called to the fact, which I should have recalled, that the railway employees are excluded from the operation of the Smith-Connally Act. So we do not have to be worried about that construction.

Mr. HARRIS. Then there is no machinery set up to handle a Nationwide strike, should it occur, in the railroad industry?

Judge VINSON. Oh, yes.

Mr. HARRIS. What?

Judge VINSON. Well, I don't like to think of that.

Mr. HARRIS. I don't either. But it seems it is probable that we will have to face it.

Judge VINSON. The same powers are present as in the management of other plants seized prior to the Smith-Connally Act.

Mr. WOLVERTON. Coming back to the question of the powers delegated by the President, I take it that you are of the opinion that under the act the President could delegate all of the powers that he had under the act of 1942, but not a part of the powers.

Judge VINSON. I don't say that. The President was given the express power to delegate functions under the act of October 2 to various agencies.

Mr. WOLVERTON. I understand that, but I am speaking now with reference to the broad powers that he delegated to you. I tried to present to you the thought that in giving you these broad powers, he could have reserved to himself the right to have approved any agreements that had been entered into between management and the men on the railways in conformity with the Railway Labor Act.

Judge VINSON. He could have done that, or he could have expressly delegated that power to some other agency. As a matter of fact, under 9250, the railroad disputes would have had to have been considered by the National War Labor Board. Most of them then would have cleared through the same agency as to wages and disputes. But representations were made, and Justice Byrnes, as I understood it, was entreated, and finally Executive Order 9299 was issued, which removed the railroad disputes from the War Labor Board, and routed them through the emergency boards, with, still, the emergency boards reporting to the President, but with the express provision—that my good friend, a very capable gentleman, rarely referred to. It was put in the record, all right; there is no question about that. It was put in the record on Monday or Tuesday, but he rarely referred to it.

I will read paragraph 5 in its entirety. This Executive Order 9299, after section 1 says—

> that no increase in wage rates or salaries of any employees subject to the provisions of the Railway Labor Act, whether granted as the result of voluntary agreement, collective bargaining, conciliation, or otherwise; no decrease in such wage rates shall be made except in accordance with the provisions of this order; then that no carrier should make any change in wage rates except such changes as by general order of the National War Labor Board regulations and the Commissioner of Internal Revenue are permitted to be made * * * unless notice of such proposed changes shall have been filed with the Chairman of the National Railway Panel. And then they shall be permitted to become effective as hereinafter provided:
>
> Five copies of the report with recommendations made to the President by any Emergency Board, under section 4 of this order, shall be filed by the Board forthwith with the Economic Stabilization Director, the National War Labor Board, and the Commissioner of Internal Revenue. The Economic Stabilization Director may, on behalf of himself, the National War Labor Board, and the Commissioner of Internal Revenue, report to the President the effect of the recommendations on the general stabilization program.

They read down to there, but they stop when they get there. And here is what that section continues to read:

> Unless and except to the extent that the Economic Stabilization Director shall otherwise direct, the recommendations of the Emergency Board * * * shall, on the expiration of 30 days after the report is filed with the President, become effective.

Consequently, those dispute cases, under 9299 were routed through the emergency boards and would not become effective if they were disapproved by the Office of Economic Stabilization.

Mr. WOLVERTON. Suppose the order of the President had stopped at the point where you say that those who quoted it stopped short, and it had not contained those later words which you used, which say that the findings of the emergency boards shall not be effective except as you direct. Suppose that part had been left out and it therefore would have read that no findings of the emergency boards would be submitted to you for recommendation. I assume that the President could have ended the order at that point, and then the power would have continued to reside in him as to whether the findings of the emergency board would be accepted or not—or approved. I have tried to make plain what is in my mind. It is this: I draw a distinction between the legislative duties and the Executive duties that are legislative in character.

Judge VINSON. I know you do.

Mr. WOLVERTON. And I think it is very unfortunate that legislation of this character comes before the Congress for the fixing of—whether it be wages or whether it be particular prices for commodities, or what not.

Judge VINSON. It is not a very happy situation for special, particular commodities. Because it may multiply.

Mr. WOLVERTON. That is the danger that there is, of course, in the course that has been pursued, and is being pursued.

Judge VINSON. Yes, sir.

Mr. WOLVERTON. So I have been seeking to find some way by which this matter could have been settled, or could be settled in what I consider the regular channels for the settlement of matters of this character, and that is in the executive branch, under the powers that have been delegated by the Congress. So, having that in mind, I have felt that the President had within his power, by either delegating full powers to you, or power to the emergency board, and withholding in himself the right of finally approving, such as he exercised in the case of the miners, under the statute which permitted him to do so. Now, under the act of 1942, it was not necessary for the President—I am speaking from his standpoint—to have set up a department such as the Office of Economic Stabilization. He could have continued

to exercise the powers of that act in his position as President. Therefore, if he had the right to delegate those powers, he had the right to delegate all or a part. He could have delegated, as you have well said, to other agencies, other than the one you represent, and in this instance, if he had recognized the long period of years over which there has been railway negotiations of disputes, as a result of legislation that has been passed by Congress, it would seem to me that he might well have delegated to the emergency board the right to make a finding, subject to his approval, the same as in the miners' case. Then this would not have been before us as a legislative matter.

Judge VINSON. I don't know but what it could be. Of course, the only difference would be that there would be the question of the President of the United States having disapproved the order rather than the Director of Economic Stabilization, whomsoever he might be.

Mr. WOLVERTON. That is true. The power, however, would have been resident in the President to have either approved or disapproved. In the miners' case he approved. In this railway labor case he may have approved or he may have disapproved. We have had testimony before us that has indicated that the President urged the parties to accept this proposition, and I take it from that that he was probably favorable to it, and that if the power had remained in him, he would have approved it. Now, I wonder if we cannot save this dangerous trend of congressional action in dealing with individual cases by the President assuming, or reassuming, the powers that are resident in him to be the final arbiter as to whether an agreement or the findings of an emergency board should be accepted or not?

The CHAIRMAN. Do you prefer to take that merely as an observation?

Judge VINSON. I think I would.

Mr. WOLVERTON. I would like to ask one other question. The President could follow that course if he wished to, could he not?

Judge VINSON. I will have to get you to chart that course again, Congressman.

Mr. WOLVERTON. In the event that the strike which has been spoken of as having been fixed for December 30 should go through, would it then be possible for the President to seize the railroads and determine the labor question the same as he did the mining situation, without consulting with your bureau? I realize that is a rather——

Judge VINSON. The power of seizure is lodged in the President of the United States.

Mr. WOLVERTON. I know it is the usual practice of the courts to ask questions to determine their judgment, but it is a bit reversed in this case. We are asking them of the court. I don't know which is the better situation to be in, to ask the questions or answer them.

Judge VINSON. I don't know. I believe there is more fun, actually—and I am not speaking of this particular case, because it isn't any fun for me to be here. It is a serious moment. I have been serious throughout the consideration of this case, because there was no pleasure, as I saw it, in executing the law as I see it. But generally speaking, with regard to the position of the bench and the advocate, I believe there is more fun advocating.

Mr. WOLVERTON. Well, I have always found it easier to ask the questions than to answer them myself.

Now, if that power exists in him, and I am inclined to think it would, to act under these circumstances without reference to the

Office of Economic Stabilization, it seems to me that when an act is passed by Congress that seeks to avoid the unfortunate situation of strikes, by the methods that have been provided by the Railway Labor Acts, and which have worked so satisfactorily over a period of years, that full recognition should be given to any decisions that result from the carrying out of that prescribed course to avoid strikes. And if in the miners' case the President could exercise the right to settle it, because there was a strike, it seems to me that it would not be improper for him to withhold in himself the right of approval of the findings that are made by an emergency board that has been set up under the machinery of an act of Congress, the purpose of which was to avoid strikes.

Judge VINSON. There is no question on earth but what that could have been done. As a matter of fact, he could have reserved the right to have approved or disapproved the recommendations that my office would make, rather than my office resolving the matter.

Mr. WOLVERTON. That is right.

Judge VINSON. He could have said to the Office of Economic Stabilization, "You report to me, and I will approve or disapprove." But the fact remains that he did not.

Mr. WOLVERTON. I understand. But to me it seems that with Congress having acted and provided a means to avoid strikes, those means having been carried through by the parties, and having arrived at a decision, there is even a greater obligation in that case for the President to have had the right of approval or disapproval reserved in himself than there is when you go to the extreme of a strike and then assume it. I still feel—I may be wrong—that this whole matter could have been settled without reference to the Congress by the assumption of the power that existed in the President to have approved or disapproved this recommendation of the emergency board. And if it required a change in his directive setting up the Office of Economic Stabilization, then that should have been done.

Judge VINSON. Of course, I disapproved it. I disapproved it, and I want to say—and I think it should be said—that mention has been made—I believe Mr. Jewell made the statement that Mr. Harrison reported that the President made certain remarks about the 8-cent general wage increase in May of 1943. I want to say to you that when I made my determination and disapproved the recommendations of the first emergency board, the Sharfman Board, I had had no communication with the President in any shape, fashion, or form. The President did not confer with me, and I did not confer with the President in regard to my action. When the first emergency board would not reconvene and the second emergency board was created, under Executive order of October 16, 1943, it was given certain directions; on November 4, 1943, after the Shaw Board, or the second emergency board had made its report, the President of the United States wrote me this communication:

WHITE HOUSE,
Washington, November 4, 1943.

DEAR FRED: Enclosed herewith is the report of the special emergency board appointed by me to make recommendations with regard to the pending wage adjustments for the nonoperating railway employees. The board indicates that in its judgment the same increases as are granted to the nonoperating employees should be accorded to the operating employees receiving like pay in order to avoid a maladjustment between inter-related groups of workers.

I hope that you will be able to give immediate attention to the report and that, to the extent that you deem the recommendations consistent with the stabilization program, you will give the authorizations required by the Stabilization Act of October 2, 1942, to permit the recommended wage adjustments for both operating and nonoperating employees.

Sincerely yours,

FRANKLIN D. ROOSEVELT.

That was received in my office November 4, 1:26 p. m.

I refer to the Executive Order 9388 and the letter in view of the fact that the date of it is subsequent to the conversations to which Mr. Jewell referred on Monday.

Mr. WOLVERTON. Well, I am very much concerned as to the trend that has become apparent to come to Congress for a change in fixed prices of commodities, and all the other indications that we have from groups that come before the Congress, and I am hopeful that some way will be found to accomplish proper results without that trend increasing.

Judge VINSON. Of course, a way was determined. The matter was resolved, and I think resolved in accordance with the rules laid down, and, of course, the brotherhoods do not want to stand by that determination and they are here. The matter was resolved.

Mr. WOLVERTON. They would not have been here if the President had approved, the same as in the miners' case.

Judge VINSON. Not if he had approved it; no. If you will approve all of the agreements to increase wages, and to increase prices, your problem as a Congressman is solved. You won't have any worries in regard to groups asking for increased wages and increased prices. But I know that you don't want that done.

Mr. WOLVERTON. Of course, on the question of wages, even in the miners' case, there was a procedure set up that preceded the President's approval. He could have disapproved if he had wanted to. So in this case I can't see why the procedure set up—why there could not be a procedure set up that he would pass upon the justice or injustice of the recommendations of the Emergency Board, especially in view of the testimony we had that he recommended to the brotherhoods that they accept it.

I think that is all, Mr. Chairman.

The CHAIRMAN. The committee will adjourn until tomorrow morning at 10 o'clock.

(Whereupon at 11:50 a. m. the committee adjourned to 10 a. m. tomorrow, Friday, December 17, 1943.)

RAILWAY PAY OF NONOPERATING EMPLOYEES

FRIDAY, DECEMBER 17, 1943

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D. C.

The committee met at 10 a. m., pursuant to adjournment, in the committee room New House Office Building, the Hon. Clarence F. Lea (chairman) presiding.

The CHAIRMAN. The committee will come to order.

Judge Vinson, is there anything further you wish to say?

FURTHER STATEMENT OF THE HON. FRED M. VINSON, DIRECTOR OF ECONOMIC STABILIZATION

Judge VINSON. There is a statement that I would like to make, when Mr. Winter returns, in response to a question he asked me yesterday.

The CHAIRMAN. Very well. I understand that Mr. Hinshaw has some questions at this point.

Mr. HINSHAW. Judge, I appreciate the difficult position you are in, but the other day in his testimony Mr. Jewell said the President had urged the nonoperating employees to agree to the 8-cent increase; is that your understanding?

Judge VINSON. That was the testimony of Mr. Jewell; it also was the testimony of Mr. Harrison before the Senate committee.

Mr. HINSHAW. You have no other knowledge of that agreement?

Judge VINSON. The President never informed me of such agreement.

Mr. HINSHAW. Was your appointment subsequent to that agreement having been made?

Judge VINSON. My appointment was on May 29, 1943.

Mr. HINSHAW. What was the date of the agreement? I am informed that was on May 27. You had no knowledge of that agreement at the time you were appointed, or subsequent thereto?

Judge VINSON. I had no knowledge of that agreement at the time I was appointed, or at the time I made the determination, or at the time I filed the opinion, or at any time since so far as any statement from the President is concerned.

Mr. HINSHAW. And yet the President transferred all of his powers and duties under the Stabilization Act, so far as wage stabilization is concerned.

Judge VINSON. Well, the delegation, of course, Congressman, had been made to the Office of Economic Stabilization before I came to that office. You see, Justice Byrnes preceeded me as Director of Economic Stabilization.

Mr. HINSHAW. And then certain other powers were transferred to you on May 29.

Judge VINSON. No. The powers had been conferred upon the Office of Economic Stabilization.

Mr. HINSHAW. But you said yesterday that certain powers were transferred to you by the President.

Judge VINSON. I believe I said that it was transferred to the Office of Economic Stabilization.

Mr. HINSHAW. What powers were transferred to you on May 29?

Judge VINSON. No powers. All the powers that I have had already had been delegated prior to my induction into the Office of Economic Stabilization.

Mr. HINSHAW. You don't want us to understand that you had no powers?

Judge VINSON. I certainly do not, and I haven't said that or anything that indicates that.

Mr. HINSHAW. No; but I asked you what powers were transferred to you——

Judge VINSON. I said that on May 29 there had been no powers transferred to me, as of that date. The powers that I had had already been delegated to the Office of Economic Stabilization before I took over, and when I was inducted into that office I had the powers that had been delegated.

Mr. HINSHAW. Well, I have mixed up the terminology, perhaps.

Judge VINSON. I see.

Mr. HINSHAW. Then would you say that this controversy would not have come to us in the event that the powers which were delegated to you had not been delegated to you?

Judge VINSON. I just don't get your question, Mr. Hinshaw.

Mr. HINSHAW. Well, it seems to me this controversy comes to us by virtue of the fact that the President urged the brotherhoods to accept the 8-cent agreement with the employers, which they did, and then subsequently that agreement was, in effect, disapproved.

Judge VINSON. Well, the President delegated the powers that were conferred upon him by the act of October 2, 1942, to the Office of Economic Stabilization, and then subsequent to October 3, we had an Executive Order, No. 9299, dealing with the railroad situation specifically. On April 8, we had the hold-the-line order, 9328, and on April 12, the Byrnes directive.

Mr. HINSHAW. And the hold-the-line order was prior to the time the President persuaded the Brotherhood to accept the 8-cent agreement with the employers.

Judge VINSON. That is your language, sir. May 27, of course, is subsequent to April 8. The hold-the-line order is dated April 8.

Mr. HINSHAW. And in accordance with the testimony that has been given by Mr. Jewell, the President persuaded the brotherhood to agree to the deal with the employers on an 8 cents an hour general increase.

Judge VINSON. I still have to say that that is your language, and the testimony that has been presented.

Mr. HINSHAW. No, it is not my language.

Judge VINSON. Well, I am not making the statement. That statement was made, however. I am not saying that the President made such a statement.

Mr. HINSHAW. As I understand your testimony, we are here by virtue of a bill introduced attempting to intervene between two arms of the Government; is that correct?

Judge VINSON. No; I never made that statement.

Mr. HINSHAW. Well, in effect, is that true?

Judge VINSON. No, sir. I made the statement that the matter had been determined, had been settled under the law, and under the standards of the stabilization program; that seemingly the standards were too rigorous for the Brotherhoods and they had brought the case to Congress.

Mr. HINSHAW. And you still say that you had no knowledge whatever of the agreement between the President and the Brotherhoods?

Judge VINSON. I do. I say that emphatically.

Mr. HINSHAW. Well, wouldn't you say that if it can be conceded that that agreement was made, that we are here asked to intervene between two arms of the same branch of the Government?

Judge VINSON. I don't think so.

Mr. HINSHAW. Well, that is the position in which we find ourselves.

Judge VINSON. Congress directed wage control; directed the President of the United States to control wages and prices, as of September 15, as far as practicable; authorized him to create agencies and to delegate powers and functions to those agencies to administer that law. The President delegated powers and functions to the Office of Economic Stabilization. At the time of the filing of the report in this case with the President of the United States, both the original report which is said to have been filed on May 24 and the supplemental report, said to have been filed on May 29, powers and functions under the Stabilization Act of October 2, 1942, had been transferred by the President of the United States to the Office of Economic Stabilization, and that was in the form in which this wage dispute, as well as all other wage disputes, lay.

Mr. HINSHAW We understand that, and I do not expect, since you do not admit you had any knowledge of the President's deal with the Brotherhood, and contend that is only a statement on their part, that anything further can be said so far as you are concerned. But nevertheless, it appears to me that that is the case, that we are asked to intervene between two branches of the Government—two arms of the same branch of the Government.

The CHAIRMAN. Judge, I would like to ask you a question. What remedies are available to meet this situation, outside of legislation?

Judge VINSON. All I can say to that, so far as I know the case has been determined by the executive branch of the Government.

The CHAIRMAN. There is a decision by the executive branch of the Government, but apparently no settlement. Now, can you tell us how this question can be settled? What avenue is open to this committee? Is it only legislation, or is there any other clear method by which a settlement may be secured, according to law?

Judge VINSON. Well, Mr. Chairman, in my considered judgment this case followed the proper channels, the channels that were cut out for it to follow. It was determined; it was settled. Now, when we have litigation in the courthouse, generally there are two sides, and sometimes folks say there are three sides, but generally there are two sides. The evidence is presented; you will have possibly a

master who hears it. The master makes his recommendation to the court, the court takes that recommendation and considers it. The court may either approve or disapprove the master's recommendation, but when the court approves or disapproves, it is settled.

The CHAIRMAN. It may be settled where the case is considered from a legal standpoint, but where we have other considerations, as here——

Judge VINSON. Of course, the litigant in the court case may not be satisfied, and an appeal could be taken, if an appeal would lie, to the court of appeals, but I don't think it would follow that appeal would lie to the legislature to overturn the judgment of the court. This matter, as I see it, and I say it as considerately as I can, because I realize the situation that exists; I realize the situation that the Members of Congress are in. It has not been so long since I was in these Halls, and I know the situation in which the Members of Congress live. But when you have the rules of the game laid down, not only to settle this dispute, but to settle tens of thousands of disputes on the labor front, then when you reach the end of the road and a determination is made, it is settled. And that is a very serious situation, aside from threats of strike and strike notices given. That is serious, but it is also a grave question of the legislative acting as a court of appeal upon the action of the executive, and when I say that, not for 1 split second do I indicate that Congress has not full power to repeal the act of October 2, or to amend the act of October 2, or to set up a formula under which wage disputes may be adjudicated. That is not the case before the bar today. It is the question of the validation of a contract, as I understand it, that was dated August 7, 1943.

The CHAIRMAN. I think we can all accept the desirability of a settlement of a controversy of this character without legislative action through some agency that has been provided by law, but here we are faced with the question of nonaction and on what method is provided by law for a settlement——

Judge VINSON. Of course, that is where we are not on common ground. As a matter of fact, the heat superinduced by my action makes me know positively there was action and not nonaction.

The CHAIRMAN. Supposing we have a decision of a court, according to law, we still have the alternative proposition of the Supreme Court. It is serious, of course. I know you appreciate that as much as I. We know what we would have to deal with in this committee if we had some administrative method that would offer a solution. But in the absence of any such remedy, the responsibility rests very largely on us, and we are confronted with finding alternatives to that situation, and it was in an endeavor to get a suggestion as to a way out of that difficulty that I asked the question.

Judge VINSON. Yes, sir.

The CHAIRMAN. Mr. Halleck.

Mr. HALLECK. Judge Vinson, since this matter has been before the committee. I notice in the press a statement has been given out by the 5 operating brotherhoods calling a strike for December 30, which is less than 2 weeks away. The chairman has spoken of the possibilities of strike. I wouldn't want to characterize that at the moment, other than to say that it is a matter of tremendous significance. Now, the thing that comes to my mind—I don't know whether it can be considered or not—as I understand it, this resolution has to do only with the nonoperating brotherhoods. What I am wondering is whether

or not you would express any opinion on the proposition that, even though this resolution might be adopted by Congress, and bring tranquility between the Government, employees, and employers, as to the 16 nonoperating brotherhoods, what, if any, effect would that have upon the threatened strike of the operating brotherhoods, and what would be the effect upon the railroads if that strike were to become effective, and the operating brotherhoods walked out? My view would be that the railroads just would not move.

Judge VINSON. Well, I think that is a very pertinent question. As the matter now stands, when the recommendation of the Emergency Board in the operating case, which was composed of Judge Stacy, of North Carolina, and Mr. Sharfman, who was the chairman of the first Emergency Board in the nonoperating case, and Mr. Smacker—when that report recommending the 4-cent increase was approved, it was approved because the computations showed that the operating employees had not gotten the full 15 percent under the Little Steel. If you will recall, when I read the Executive order appointing the special Emergency Board in this the nonoperating case, reference was made to their taking into consideration among other things the recommendations of the Stacy board in the operating case. When the second Emergency Board reported, the Shaw board, and gave the lowest paid employees 10 cents, and running to 4 cents for the highest paid bracket, you will understand that in the main the operating group is the higher paid group. Now, I said in general—and I can't tell you the percentage, but practically all, or a large part, I should say, to be supercautious, of the operating group receive more money. But there were some of the operating group, according to the Shaw report, who received wages per hour lower than those received by the nonoperating group.

Consequently, they pointed out that something should be done to put the men on the same basis. If a nonoperating employee, getting 85 or 90 cents an hour, was to receive a 6 cents an hour increase, or a 5 cents an hour increase, operating employees receiving presently the same amount of money should receive the same increase. And if you will note in my opinion I stated that an agreement would be approvable which would permit the operating employees to receive a little more than 4 cents specifically, 5 or 6 cents, to bring them into line with the nonoperating employees and put the operating group on an even keel with the nonoperating group. I give you that for background. But here is the situation, and I think it is a serious situation, at the present time. The operating group wanted 30 cents an hour increase. They were permitted 4 cents an hour under Little Steel. The Sharfman board, the first Emergency Board in the nonoperating case, said the nonoperating group was not entitled to anything under Little Steel, and we agree with that. Now, if Congress comes along and says that the nonoperating group, which was not allowed anything under Little Steel, is entitled to 8 cents an hour, what will the operating group say about that? I think it is of very serious significance. The action of the committee, the action of the Congress, in granting 8 cents an hour for the nonoperating group, when the operating group was limited to Little Steel, I can imagine—well, you don't have to have much imagination to know what that could do. And furthermore, where do you stop, where are your standards? If Little Steel goes, how many more cents an hour will Congress give the operating employees?

Mr. HALL. Just a question, Judge. Assuming that the position of the proponents is correct in this case, do you feel they could have come in here with, say, an increase of $1 a hour.

Judge VINSON. Assuming that they——

Mr. HALL. Assuming that they are right. Or——

Judge VINSON. I get your question. I was just trying to see if there was any way I could rationalize an answer that would say they could not. If the contract of August 7 had been $1 an hour, I don't see any reason on earth why they couldn't come here and ask you to validate that contract.

Mr. HALL. In other words, assuming again that their position is right, we would have to go farther and say that the President has the power to stabilize wages except the wages of the Brotherhoods, and except his right to stabilize their wages with relation to wages in other groups throughout the country.

Judge VINSON. I think you have hit on something there. If the contract had been $1 an hour, and assuming that their contention is correct, that they are not within the wage stabilization program, or that, if they were, they want the $1 an hour, and they asked Congress, I think you could do it with equal propriety.

Mr. HALL. Then so far as the ultimate result is concerned, we would be left with no formula so far as the wages of the railroad brotherhoods.

Judge VINSON. That is the situation, not only for the railroad brotherhoods, but for all others. And I want to read a statement in response to that thought on the question that Congressman Winter raised yesterday. You know, gentlemen, when you are living with problems, and as I say, become saturated with the considerations that are involved in a problem, sometimes you just take things for granted.

Congressman Winter asked me a question yesterday in regard to the inflationary situation under the recommendation that I disapproved, and under the one I approved, and it made me realize it would be well to spell that out a little, and with your permission, I will do that.

Congressman Winter's question went to the center of one of the arguments that has been presented, that there is only $18,000,000 difference between the $185,000,000 and the $167,000,000, and that if one is inflationary, why isn't the other? The difference is that one proposal conforms to the standards of the program, and the other does not.

Mr. HALLECK. What was that?

Judge VINSON. I say the difference is that one proposal conforms to the standards of the program, and the other does not.

Yesterday I listed for you the tests which any proposed wage increase must pass if it is to be permitted under the stabilization program. The 8-cent general increase cannot pass any of those tests. The sliding-scale increase, on the contrary, does pass those tests. The Special Emergency Board found that the lowest paid nonoperating employees were receiving substandard wages and that those workers who were receiving 40 cents, 43 cents, and 46 cents per hour were entitled to receive a 10-cent adjustment in order to relieve their substandard condition.

At the same time, the Emergency Board which considered the claims of the operating employees, who in general are the highest-paid workers in the industry, determined that these employees were entitled to receive a 4-cent increase under the Little Steel formula.

This, then, is the situation with which we were faced: We had the operating employees at the top eligible for a 4-cent increase under the Little Steel formula. We had the substandard workers at the bottom eligible for a 10-cent increase. This left us faced with the question of what we were to do about the employees in interrelated job classifications who were above the substandard level but in general below those who had received the Little Steel adjustment. The preservation of productive efficiency required that these workers in interrelated job classifications should receive some adjustment, and the commonly accepted standards of the stabilization program would permit such an adjustment.

Consequently, the Special Emergency Board recommended a sliding scale for these employees, tapering their increases gradually down to 4 cents which was given to the operating employees under the Little Steel formula.

That is the origin and explanation of the so-called sliding-scale formula. It was a formula designed to deal with the needs of substandard workers and with the problem of maintaining productive efficiency for those workers who were not substandard, but who were in the immediately interrelated job classifications.

On the other hand, the 8-cent general increase recommended by the first Emergency Board, in the nonoperating case, was not based upon the elimination of substandard conditions, and did not differentiate between substandard workers and other workers in immediately interrelated job classifications.

Therefore, it could not pass the test of the stabilization program.

The practical effect of this distinction is enormous. It cannot be measured by the dollar difference between the net cost of one or the other solution as applied solely to the railroad industry—whether that difference be $18 or $18,000,000.

The so-called sliding scale can only be applied to those industries where substantial groups of workers are receiving substandard wages. Most of our industries in which workers are demanding increased wages do not come within this category. On the other hand, if the 8-cent general increase were approved—not upon the basis that wages in the lowest-paid brackets of the railroad industry are substandard, but upon the ground that the wages of this industry as a whole are not as high as the wages paid in other industries—then the floodgates would be open to workers in every industry who might plausibly contend that the wages paid to them are not as high as those paid to the employees of other industries. Scores of increases requested by workers in other industries upon precisely this ground have been denied by the National War Labor Board. The passage of this legislation with the new standards implied in it, would justify the reopening of all those cases, and would open a Pandora's box of new cases.

For instance, the workers in the air-frame industry and the packinghouse industry made claims precisely like those which the railroad workers have made. Their claims were turned down by the National

War Labor Board. If this legislation were passed, the Board might take it as an indication that the Congress wants those cases reopened. Likewise, the steel workers who are now asking for substantial increases would be encouraged to press their demands.

The simple and all-important fact is that the sliding-scale arrangement conforms to our present standards and does not open the way for increases throughout the wage structure, while the general 8-cent increase fails to conform to those standards and, therefore, does open the way to such increases. Only by adherence to our present standards can we minimize the danger of run-away inflation.

The CHAIRMAN. I would like to ask another question along the line of Mr. Hall's question. Judge, is it true that the only remaining remedy in the hands of the Government in case a strike occurs is to take over the railroads? And has the President the power to do that?

Judge VINSON. The President certainly has the power to do that.

The CHAIRMAN. Do you know of any other remedy to meet the situation in case a strike does occur? Isn't that the only remedy?

Judge VINSON. Of course, if there be no strike that is an alternative. That is a very, very splendid alternative.

The CHAIRMAN. That would be the remedy not resting in the hands of the Government, but in the hands of the organized groups.

Judge VINSON. Yes, sir; and, of course, Mr. Chairman, you have the question of threat of strike and of strike on the wage front all the time. If threat of strike or strike on the railroad front means that your wage stabilization program goes out the window and run-away inflation attaches, what then will be said? If threat of strike or strike can break the wage structure, what will prevent any strong group of men, whether it be shipyard workers, whether it be steel workers, whether it be aircraft workers, whether it be munition production workers, from saying, "We will strike unless we get the wage that we want." That is in this picture, Mr. Chairman.

The CHAIRMAN. Yes; and what I had in mind is what is ahead of us on this thing.

Judge VINSON. We had a strike on the Pacific Electric Railway in Los Angeles—tied it up. There were two cases out there, one Los Angeles Street Railway, pending before the War Labor Board. The War Labor Board granted a rehearing, and under the sound and tested going-rates standard, when the War Labor Board raised Los Angeles 5 cents an hour, the second Pacific electric railway company received similar increases, Los Angeles being the dominant employer in the traction field.

Mr. KENNEDY. Before I ask the question, I want to remark that in the case of strike or anything else, the President has the right to take over under his emergency powers. But what I want to ask, Judge, is whether the fact of all this controversy and the whole difference of opinion is based on the so-called Little Steel formula. That is the basic consideration?

Judge VINSON. I can't say that that is the basic consideration.

Mr. KENNEDY. I mean that is a sort of rule.

Judge VINSON. That is a formula; yes, sir. But there is no claim made here by the brotherhoods, as I understand it, that they are entitled to even a 1-cent increase under the Little Steel.

Mr. KENNEDY. On the question of these tests that must be met. Those tests were established by your office; were they not? Those that were listed in your testimony?

Judge VINSON. They were contained in the hold-the-line order, 9238, dated April 8, 1943, and the Byrnes directive of May 12, 1943. They were there when I took this office.

Mr. KENNEDY. This is an unusual situation, because both the immediately interested parties, both the employers and the employees, had an agreement that was not ratified, and there is testimony that the sliding scale is a most impracticable thing to apply in the railroad industry, from the point of view of both employer and employee—it is not a question of dollars and cents. But is it not possible, in your mind, in view of this terrible head-on collision, and mindful of the fact that it will probably shatter all we have been working for, would it not be possible to sit down around a table in your office and come to an agreement that, without sacrificing the principles involved, would show the advisability or the wisdom, or perhaps the expediency of modifying your views along that line, so that it could be considered and approved by your board?

Judge VINSON. I don't agree with you that the wage structure would be shattered. It would be changed. Hundreds of industries operate under the so-called sliding scale, where wage increases were granted under substandards, with a decrease at the top. I would like to state that if an 8-cent increase across the board would be granted either by the executive branch of the Government or by the legislative branch of the Government, what standard could be written justifying that, when the steel workers ask for a 17-cents-an-hour increase and are not entitled to it under the Little Steel formula? We would not have any standard. The operating group asked for 30 cents an hour increase. We must have standards, and if standards were not in the wage-stabilization program I am certain we would have heard from Congress about it.

Mr. KENNEDY. Of course you know the importance and necessity of compromise. And from your position I most respectfully disagree, in view of the unusual situation.

Judge VINSON. I have no feud with my friend for not agreeing with me. My purpose here—and there is no feeling or no heat—my purpose here is simply to present views and try to give information that possibly has not been presented and considered.

Mr. KENNEDY. I know that. I want to congratulate you on the very restrained manner in which you have presented such a hot controversy, and we are all mindful of your position; but in view of the fact that the other body has passed this resolution by such an overwhelming majority and in view of the action during the past year and in view of the conferences, might it not be possible to take one more try at it and see if you cannot adjust that formula, the Little Steel formula or whatever else it is, because these men all seem so anxious to settle the matter, and I think it might be the proper way, if a compromise can be had, because if we pass this resolution and it becomes a law, then we are going to place it in hot water.

Judge VINSON. Congressman, when the agreement of August 7 was executed, there were provisions for that agreement to clear through the Railway Labor Panel and Emergency Board and come to me. That agreement never was submitted to my office, and as I said yesterday, it might have been because they thought there was no need to resubmit an agreement calling for the same 8-cent across-the-board increase.

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Mr. KENNEDY. I think both sides acted in good faith and as a matter of fact they were working out a happy compromise.

The CHAIRMAN. Judge, will it be convenient for you to temporarily suspend until the committee has a short executive session?

Judge VINSON. Yes, sir.

The CHAIRMAN. So if the audience will give us the committee room——

Mr. WINTER. Mr. Chairman, are you shutting it off?

The CHAIRMAN. No; no.

If the audience will give us the room for a brief time, in a few minutes we can proceed with the hearings.

(Thereupon, the committee proceeded to the consideration of other business in executive session, after which the hearings were resumed.)

The CHAIRMAN. The committee will come to order. Mr. O'Hara, I believe, wanted to ask some questions.

Mr. O'HARA. Judge Vinson, I had this question in mind: In the consideration of this matter by you, was there any consideration given to that part of the law which Congress enacted for the purpose of wage stabilization, the Stabilization Act, providing for consideration of the question of gross inequities, or aiding in the effective prosecution of the war, or any alternative, or was your decision based solely on the Little Steel formula?

The reason I mention that is, Judge Vinson, that Mr. Jewell emphasized as I understood him that situation with the brotherhoods and stated that they particularly relied upon the action of Congress providing for the correction of gross inequities and aiding of the prosecution of the war.

Judge VINSON. I did. The opinion of June 30 set forth my views in regard to that and I read it into the record yesterday.

Mr. O'HARA. I have not had a chance to read that, of course, as you appreciate, Judge Vinson.

Judge VINSON. Yes, sir.

Mr. O'HARA. I think that is all I have.

Mr. HARRIS. Mr. Chairman.

The CHAIRMAN. Mr. Harris.

Mr. HARRIS. I want to ask you if you have commented on the limitation that is provided in section 2 of the amendment to the Emergency Price Control Act of 1942 which says:

> * * * The President may suspend the provisions of sections 3 (a) and 3 (c), and clause (1) of section 302 (c), of the Emergency Control Act of 1942 to the extent that such sections are inconsistent with the provisions of this Act, but he may not under the authority of this Act suspend any other law or part thereof.

Judge VINSON. Yes, sir.

Mr. WINTER. What is your interpretation of that with reference to the authority you have as Economic Stabilization Director?

Judge VINSON. I do not assume to have the power to suspend any law that comes within the language of the exclusion clause; and I think it is clear beyond doubt that the Railway Labor Act, which is the other law that has been referred to at different times as having been suspended, that the Railway Labor Act was not suspended in any particular; but on the contrary, the procedures under the Railway Labor Act was followed out in minute detail in this particular case.

Mr. HARRIS. Just what I have not been able to get clear in my mind is the fact that after the Emergency Board made its recommendation, the first Emergency Board, which was in accordance with the Railway Labor Act, then a second Emergency Board was appointed by the President.

Judge VINSON. Well, the trouble is, your first statement——

Mr. HARRIS. Just a minute. Let me finish, if you please.

Judge VINSON. Yes.

Mr. HARRIS. The second Emergency Board was appointed by the President, which as I understand is not authorized under the Railway Labor Act.

Now, when that was done, did not that, as a matter of fact, suspend the provisions of the Railway Labor Act?

Judge VINSON. No. The first part of your statement was that the recommendation—at least I got the impression that you had in mind that the recommendations of the first Emergency Board settled it. I might be wrong about that.

Mr. HARRIS. Well, I had this in mind; I may be incorrect. It is my understanding that after the Emergency Board, first Emergency Board, made its recommendations, then you, by directive—or was it Judge Byrnes by directive—said that that decision could not become effective.

Judge VINSON. Well, of course, as I attempted to say yesterday, under the Railway Labor Act, you get up to the recommendations of the Board. Their action is purely recommendatory. Their recommendation does not settle the dispute.

Now, in other words, as I pointed out yesterday, in December, 1941, a board, the Morse board, after hearings, recommended an increase for the nonoperating employees of 9 cents, as I understand it. They declined to accept it. The Morse board was reconvened.

Mr. HARRIS. Now, was the Morse board the Emergency Board?

Judge VINSON. Yes. The Morse board was reconvened and had hearings I think for 2 or 3 days and reaffirmed their action. Still, the recommendation was not accepted by the brotherhood. Then there was an appointment of a board of mediation or arbitration. I think they were called mediators. They were not sitting as an emergency board. And in mediation they upped the 9 cents to 10 cents, and that was accepted.

Now, here is the situation that existed when the first Emergency Board in this case made its recommendations: Those recommendations were not approved. That was in June of 1943. The opinion—if it can be called such—that I filed on June 30 was in the form of a letter to the first Emergency Board—and likewise I filed a copy of the letter with the chairman of the National Railway Labor Panel.

I was advised both by the chairman of the Board and by the chairman of the National Railway Labor Panel, that under the Railway Labor Act, this first Emergency Board had concluded its deliberations; had adjourned, was dissolved, and was no more; and that that was the end of it.

Well, the matter went along for some time. It was apparent to me from the record presented in the first case, that some of the employees were entitled to increases under the substandard test, and that others were entitled to increases under the interrelated job classification test.

Before the second Emergency Board was appointed, I communicated with Dr. Leiserson, chairman of the National Railway Labor Panel, seeking to secure either the reconvening of the Emergency Board, or the reconstitution of a new Board to have hearings and to

make recommendations, if they so desired, on the substandard tests and the interrelated job classifications. I was advised by Dr. Leiserson in a letter dated October 13, in answering my letter of the 11th inquiring if he would appoint a new Emergency Board to consider the wage case of the nonoperating railroad employees, upon the point of issue just now—I read from the letter:

I must advise you, therefore, that I cannot appoint another Emergency Board to investigate the wage dispute in the case of the nonoperating employees, both because I have no authority to do so, and also because I think it very unwise to change the procedures of the Railway Labor Act and Executive Orders 9172 and 9299 by any such action. The case of the nonoperating employees arose more than a year ago, in September 1942. All the procedures provided by the Railway Act and the Executive orders have been gone through, and the long delay in getting a final determination has created confusion in the minds of managers and workers on the railroads, as well as discontent in a serious manpower situation. To appoint a new Emergency Board and start a new proceeding at this time would only add to the confusion and discontent.

It was after receiving that letter dated October 13, 1943, that the President issued Executive Order 9388, to which I referred yesterday, creating the Special Emergency Board.

Mr. HARRIS. Under what authority was that order issued, in your opinion?

Judge VINSON. I always like to use the exact language when I can.

EXECUTIVE ORDER 9388

ESTABLISHING A SPECIAL EMERGENCY BOARD TO REPORT ON THE CLAIMS FOR WAGE ADJUSTMENTS OF NONOPERATING RAILWAY EMPLOYEES

Whereas, the Director of Economic Stabilization found the report of May 24 and May 29, of the Emergency Board set up to consider the wage adjustment claims of the nonoperating railway employees to be inconsistent with the stabilization program established under the Act of October 2, 1942—

Mr. HARRIS. Now, Judge, right there, may I interpose a question? Is what you have just read not an indication of the fact of suspension of the procedure under the Railway Labor Act?

Judge VINSON. I cannot see that in that language.

Mr. HARRIS. Well, did you have authority then under the Stabilization Act to deny what the Board did under the Railway Labor Act?

Judge VINSON. Oh, certainly I did.

Mr. HARRIS. And, therefore, by not suspending——

Judge VINSON (interposing). Not suspending the Railway Labor Act, or procedures of the Railway Labor Act—I would like to read this entire Executive order into the record.

EXECUTIVE ORDER 9338

ESTABLISHING A SPECIAL EMERGENCY BOARD TO REPORT ON THE CLAIMS FOR WAGE ADJUSTMENTS OF NONOPERATING RAILWAY EMPLOYEES

Whereas, the Director of Economic Stabilization found the report of May 24 and May 29, of the Emergency Board set up to consider the wage adjustment claims of the nonoperating railway employees to be inconsistent with the stabilization program established under the Act of October 2, 1942, and the Executive Orders issued thereunder, and directed that the claims be reconsidered in light of the opinion filed by him on June 30, 1942, and

Whereas, the Emergency Board originally constituted to consider the claims of the nonoperating railway employees has been dissolved and it is necessary to provide further machinery for adjusting these claims in accordance with the Act of October 2, 1942, and the stabilization program established thereunder,

Now, therefore, by virtue of the authority vested in me by the Constitution and the Statutes, and particularly by the First War Powers Act, 1941, as President of the United States and Commander in Chief of the Army and Navy, it is hereby ordered as follows:

(1) There is hereby established a Special Emergency Board of three members to be selected by me from the National Railway Labor Panel to reconsider the claims for wage adjustments of the nonoperating railway employees, and to recommend to me such wage adjustments which should be made, within the limitations of the Act of October 2, 1942, and the Executive Orders thereunder, and in conformity with the opinion of the Economic Stabilization Director of June 30, 1943. In making its recommendations to me, the Board may give such consideration as it deems appropriate to the report filed with me on September 25, 1943, by the Emergency Board appointed to consider the claims for wage adjustments of the operating railway employees.

(2) The parties before the Special Emergency Board shall be the same as those included within the recommendation of the Emergency Board which reported to me on May 24 and May 29, in this dispute.

(3) The Special Emergency Board shall report to me on or before November 15, 1943. Copies of the report shall be filed at the same time with the Economic Stabilization Director, the National War Labor Board, and the Commissioner of Internal Revenue.

The recommendations of the Special Emergency Board in regard to proposed changes affecting wage and salary payments shall become effective fifteen days after the date of the filing of its report with me, unless and except to the extent the Economic Stabilization Director otherwise directs.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
October 16, 1943.

The CHAIRMAN. Judge, in this connection, referring to the Senate hearings, on page 12——

Judge VINSON. I have the statute.

The CHAIRMAN. The final sentence reads:

Subject to the provisions of section 10, such Board shall have exclusive and final jurisdiction of the dispute and shall make every reasonable effort to settle such dispute.

Judge VINSON. That is right. They made every effort. They had that jurisdiction to try to settle the dispute; to make every reasonable effort to settle such dispute, and they make a report to the President under the Railway Labor Act; but it is not final.

After Executive Order 9172 issued—and that was May 22, 1942—why, of course, you had the other orders. You had 9250 issued on October 3, I believe, 1942; you had 9299 which issued on February 4, 1943.

Mr. WOLVERTON. February 4, 1943?

Judge VINSON. February 4, 1943.

You had the hold-the-line order, 9328, and then you had the Byrnes directive of May 12.

Mr. HINSHAW. Mr. Chairman.

The CHAIRMAN. Mr. Hinshaw.

Mr. HINSHAW. At the bottom of page 6 and top of page 7 of your mimeographed statement, it sets forth the standards in permitting wage increases that were issued by Justice Byrnes' May 12 directive, pursuant to the President's hold-the-line order, and it lists 6 such standards.

I do not find in any of those standards any relationship set forth as between different classes or different types of work.

It mentions promotions and reclassifications; minimum sound and tested going rate of comparable labor in similar plants in the particular

labor-market area; and minimum and maximum going rate for comparable labor in similar plants in the particular labor-market area; and interrelated job classifications. Now, take for example the case of the Los Angeles Railway dispute. I believe it was found by those in the area, whether or not it was found by administrative agencies, that the wages paid to the employees of the Los Angeles Railway system were very considerably below the going rates for other types of work, but that could be accomplished by the same persons in that area; and that it was possible for an 18-year-old daughter of a streetcar conductor, or bus driver, to earn more money in the air-frame industry than he could in his regular job. There being no standards set forth in relation to work on other than jobs in similar plants or other things of that nature, which I have just mentioned, why could not the standard be set up that would provide for a general stabilization program and thereby eliminate this wild scramble for getting more money by going to some other job?

Now, I say that, Judge, because a survey has been made in the area of the Los Angeles Railway dispute, and it was found that the greatest shortage in the number of employees was in the railway industry, largely because of the low starting rates and subsequent rates in that industry.

In view of the fact that there is no such standards set forth among these six standards, do you not believe that other standards might very well be included?

Judge VINSON. What would you suggest, Congressman?

Mr. HINSHAW. I have suggested for a long time that there be the general stabilization by areas.

Judge VINSON. General stabilization?

Mr. HINSHAW. Yes.

Judge VINSON. Now, what do you mean? Do you mean that all wages within an area should be upgraded to the top wages?

Mr. HINSHAW. No; I do not mean that, because there are different desirability factors that enter into all jobs.

Judge VINSON. Let me read this sound and tested going rate standard, so we will have it clearly in our minds, just exactly what it does limit:

> The minimum sound and tested going rate of comparable labor in similar plants in the particular labor-market areas.

Mr. HINSHAW. Yes; in similar labor-market areas.

Judge VINSON. That is right. Now, if you do not have that limitation there, then do you not think that you would have the tendency to bring all of the wages up to your shipyard wages, and your air frame wages?

Mr. HINSHAW. Well, I would not say wages. I would say desirability for the job.

Now, I have no objection to that, Judge. As a matter of fact, I think that you could settle a great deal of unrest in the labor market if such a program were adopted.

Judge VINSON. But, what standard would you have? You would have an area or locality? You say there should be a general wage stabilization in that area. Now what standards would you have to determine what was the maximum wage that could be had on the streetcar, the aircraft plant, the shipyards, and laundries and other industrial establishments?

Mr. HINSHAW. That is not entirely insuperable to decide. As a matter of fact, if one examines the starting rates in various types of work and considers the desirability of the type of work both from the permanency standpoint, as well as——

Judge VINSON. When you get into the permanency standpoint, you have something in this case. You had it in the *Pacific Electric Railway case.*

Mr. HINSHAW. Yes.

Judge VINSON. You had the question of permanency, the question of the wages evidently being very good wages in peacetimes.

Mr. HINSHAW. Yes; but that is not the question.

Judge VINSON. The question of tenure; the question of retirement; the permanency features, and that sort of thing and——

Mr. HINSHAW. Nevertheless, it is found at the present time that the Los Angeles Railway system and other railroad organizations in the area which I happen to represent displays the greatest shortage of labor availability of any of the industries in that area.

Judge VINSON. Well, my information is that there is a turn-over there, but the surprising thing to me, is, the information comes to me, that the greatest turn-over happens on the Pacific coast in the highest paid industries.

Mr. HINSHAW. You mean the shipyards?

Judge VINSON. The shipyards; yes, sir.

Mr. HINSHAW. Well, I have seen that.

Judge VINSON. They give this reason—now, whether it is good or not I do not know: They say that in the summertime they want to work up North and in the wintertime they want to come down South, and they say the persons work there at those high wages, very high wages, and get a stake and quit work for a while and they go back to work, but regardless of the turn-over, I want to say that Los Angeles Electric Railway is running; the Pacific Electric is running; a marvelous job has been done on the productive front on the Pacific coast and elsewhere in these United States.

Mr. HINSHAW. I appreciate the fact, and I still reiterate that the greatest shortage of labor exists in the railway field and the airplane fields, for example, is now the shortest in shortness—whatever is the proper term.

Judge VINSON. The manpower situation, as I get the picture on the Pacific coast, is some better than it was in the summer.

Mr. HINSHAW. Now, let me place the situation in another light. It has seemed to me that the date at which the hold-the-line" order was supposed to be effective—was that December 1, 1941, or some such date?

Judge VINSON. The hold-the-line order?

Mr. HINSHAW. Yes.

Judge VINSON. April 8, 1943.

Mr. HINSHAW. I do not mean the date of the order; I mean the date at which stabilization should become effective.

Judge VINSON. The act of October 2 says September 15, 1942.

Mr. HINSHAW. Is it not probable that at that time there were a number of labor contracts that had been negotiated 2 years prior to that, at considerable different scales, which came up for renegotiation at that time merely to level off at that particular date and that

subsequent to September 15 there were a number of such controversies arose, as for example, the coal dispute, and others, which were based on a contract that had been in existence for a long time; consequently those people who found themselves in the position of being stabilized at that particular time were in a different position than those who perhaps had a contract which had been negotiated, on September 1 or August 1 of that same year, and therefore there is a long overlap or a short overlap, depending upon whether the contract was negotiated just prior to September 15 or came up for negotiation subsequent to November 15?

Judge VINSON. Of course, you had the Little Steel formula from May of 1942.

Mr. HINSHAW. Yes.

Judge VINSON. And Little Steel had been formulated when Congress passed the act of October 2, 1942.

Mr. HINSHAW. It seems to me, just offhand, Judge—and I appreciate the seriousness of your position—that until we arrive at some general stabilization basis for all of these people in comparable work, whether it be in the same plant or same industry, or what not, we are going to have continuous difficulty, and we ought to have stabilization on a fair and reasonable basis for all concerned, regardless of dates.

Judge VINSON. Well, Little Steel does not stop at any particular date.

Mr. HINSHAW. Do you not think that the justice of the wage rate could be fairly well established by examining the manpower situation that exists in the various industries, manpower shortages as they may occur?

Judge VINSON. Well, our experience is—and I am not stating just my own experience, but my own experience plus the experience of the War Labor Board and others—that wage increases of themselves do not solve the manpower problem.

Mr. HINSHAW. Congress granted Government employees a 21 percent increase—well, a 15 percent increase plus overtime, which amounted to over 21 percent.

Judge VINSON. Well, of course, you have millions of people who are getting Little Steel, who have gotten 15 percent, who are getting overtime too.

Mr. HINSHAW. Yes.

Judge VINSON. And I understand from the record that the question of overtime may be considered in this case.

Mr. HINSHAW. Yes.

Judge VINSON. Possibly by Congress.

Mr. HINSHAW. Now, you have a starting rate in the air frame industry, and all over the United States. What is that, approximately, starting rate in the air frame industry over the United States?

Judge VINSON. Well, I would not like to make the statement "all over the United States," but I think I can say in some places it is 65 cents and in other places 75 cents. I believe I can say—I will check those figures, Congressman.

Mr. HINSHAW. Approximately that?

Judge VINSON. Of course, it is higher on the Pacific coast.

Mr. HINSHAW. And in the shipbuilding industries, it is what?

Judge VINSON. It is about 85.

Mr. HINSHAW. In other words, all of those rates, starting rates, are higher than they are in, for example, the railway industry, for nonoperating employees.

Judge VINSON. That is, some of them.

Mr. HINSHAW. Pardon me.

Judge VINSON. Some of them.

Mr. HINSHAW. Which of the nonoperating?

Judge VINSON. Some of the nonoperating employees.

Mr. HINSHAW. I do not know whether the starting rate for all nonoperating employees is 46 cents or 43 cents, or whether that is only in certain cases, or whether a person can start in at a higher rate, I do not know.

Judge VINSON. I have no doubt about that. The question of the type of work that they are doing enters into it.

Mr. HINSHAW. But even 52 cents, or 56 cents, is still short.

Judge VINSON. I think you will find that it is a question of the character of work done. I could not say off hand what the starting rate is for machinists, or die and tool workers.

Mr. HINSHAW. But in all events there is a disparity in what an ordinary person can get going into one industry or the other, and I would hope that an additional qualification could be included with the six that would assist the Director or Administrator, or whatever your position is, properly to settle this dispute.

That is all, Mr. Chairman.

Mr. BROWN. Mr. Chairman.

The CHAIRMAN. Mr. Brown.

Mr. BROWN. Judge Vinson, in the first paragraph of your very able statement you say—

> an 8-cent across-the-board wage increase for the nonoperating railway employees is an assault upon the Stabilization Act of October 2, 1942.

Do you consider the wage agreement settlement made in the coal strike situation an assault against the Stabilization Act of October 2, 1942?

Judge VINSON. There has been a lot of misunderstandings to come out of the coal dispute.

My friend Wolverton yesterday was discussing one phase of it and on reflection I got to thinking that possibly my friend's implication might, or it might have followed from his questioning, that the wage contract did not go through the stabilization mill. Of course a contract between the Secretary of the Interior or the Administrator of Solid Fuels, and the miners, was presented to the War Labor Board, which has been wrestling with the coal wage problem for months and months. They approved the contract, as I understand it, did it on the basis that they granted more wages, because there was more work time at the face and there would be more coal produced.

Mr. BROWN. Yes; but now——

Judge VINSON (continuing). I would be glad to file the opinion of the War Labor Board in the case, if it be worth anything to you. I have not gone into it thoroughly. It did not come to me and, of course, the opinion speaks for itself.

Mr. BROWN. Well, let us strike out all of the different maneuvers that were made and get right down to the basic question as to whether or not, in your opinion, that settlement was an assault upon at least

the intent and purpose of the Stabilization Act of October 2, 1942. That is the question in my mind.

Judge VINSON. Well, I would not want to say that the action of the War Labor Board violated the wage-stabilization program, because frankly I have not——

Mr. BROWN (interposing). Did the coal settlement, or the coal wage dispute settlement, give a higher rate of pay to the miners than was provided for in the Little Steel formula?

Judge VINSON. The Little Steel formula was not involved.

Mr. BROWN. Well, it was not involved in the mine dispute.

Judge VINSON. It was a question of two things, as I understand it, at least, Congressman, in the wage controversy in the coal industry. One was time and half after 40 hours and the other was increased work time at the face, and I have thought of a third one, and that was the travel pay to which the employees had agreed. Now, there may be some other angles to it, but I think I can think of three things that were involved there.

Mr. BROWN. Now, did you give your approval to the method by which the coal controversy was transferred over to the hands of someone else. Was that with your approval or with your disapproval?

Judge VINSON. I certainly did not disapprove. As I read the act, the Smith-Connally Act, it was my interpretation that Congress wanted the President of the United States to approve that contract and I certainly did not disapprove it.

Mr. BROWN. Then it is your opinion that the coal wage controversy settlement is not in violation in any way of the terms and purposes of the Wage Stabilization Act or of the Little Steel formula?

Judge VINSON. Well, as I say, I could not see where Little Steel comes into it at all and I would have to say to you with my present lights, that the action of the War Labor Board is in contravention of the wage-stabilization program.

Mr. BROWN. Do not the people of the United States, who after all, have a little interest in the stake, what we are doing down here; were not the people of the United States and have they not been under the impression that under the Little Steel formula that wages were not to be increased more than 15 percent after——

Judge VINSON. January 1, 1941.

Mr. BROWN. January 1, 1941.

Judge VINSON. Under Little Steel; yes, sir.

Mr. BROWN. And it was their thought and their belief and their idea, and still is, perhaps, that that was the figure at which wages would be frozen over the United States.

Judge VINSON. Well, if they did have that opinion, certainly. Well, I just cannot think that they did, Congressman, because if a man works longer that enters into it and there is the question of time and a half.

Mr. BROWN. Leaving out the time and a half; let us throw that out.

Judge VINSON. And if he works longer at the face, he certainly is entitled to be paid more.

Mr. BROWN. Let us leave that out.

Judge VINSON. I cannot leave that out.

Mr. BROWN. Let us get down to the fundamentals; let us strike out the time and a half.

Judge VINSON. Let us take the added time——

Mr. BROWN. Just a minute. Let me state the question. Let us strike out the time and a half.

Judge VINSON. Yes.

Mr. BROWN. Let us strike out the time at the face. Did this settlement give the miners of the country more than the 15-percent increase provided for in the Little Steel formula?

Judge VINSON. If you strike out time and a half for overtime and the additional time at the face, of course, they got more; but I cannot see how you can strike out that additional hour's time.

Mr. BROWN. I am talking about giving credit for that.

Judge VINSON. I beg your pardon.

Mr. BROWN. Not taking that out.

Judge VINSON. If you take that into consideration, the extra time at the face, as stated in the contract, plus the time and a half; plus travel time; in my opinion—and I am saying this without having reviewed it, because I have plenty to do, that I have to do——

Mr. BROWN. Be very careful what you say.

Judge VINSON. I do not say that it was in contravention of the wage-stabilization program.

Mr. BROWN. Of course, I am asking these questions, Judge, for the simple reason that the American people are wondering how you can swallow a camel one day and strain at a gnat the next. That is exactly what is in our mind, and that is what is in the minds of the American people, and that is uppermost in the question; how you can give; how you can find a way and a method to give wage increases, when you want to give them, and you can find a way and method to deny them when you want to deny them; and I think what the Congress of the United States is interested in and what the people are interested in, is a fair, over-all program that will apply to all alike, and that is all that I seek.

Judge VINSON. Of course, when you swallow a camel, I imagine you are in plenty of difficulty, and when you swallow a gnat, it can make you pretty sick.

Mr. BROWN. Yes, you are in a rather bloated condition when you swallow a camel. That is all, Mr. Chairman.

Mr. WINTER. Mr. Chairman.

The CHAIRMAN. Mr. Winter.

Mr. WINTER. Judge Vinson, I was going to interrogate you along the line Mr. Brown did, but I was very much interested in your statement that the coal settlement was not measured by the Little Steel formula.

Now——

Judge VINSON (interposing). I am saying that because I do not see where Little Steel would come in. I would like to be permitted to check that statement with the opinon of the War Labor Board. I just cannot see where Little Steel would come in. It is a deduction rather than a conclusion based upon the opinion.

Mr. WINTER. Well, what I was getting at was this: In your statement yesterday, you said, you set up seven standards which would permit increases of wages under the Stabilization Act and the President's "hold the line" order, and in that you stated that of those standards, the only one which permitted an over-all increase across the board in an industry was the Little Steel standard.

Judge VINSON. That is right.

Mr. WINTER. Well now then if that is the only one, how could the increase be granted to the coal industry without violating it in that instance?

Judge VINSON. Well, whenever you work longer at the face——

Mr. WINTER. They are working 15 minutes longer.

Judge VINSON. Only 15 minutes?

Mr. WINTER. That is all.

Judge VINSON. I think you had better read the opinion.

Mr. WINTER. I have; and I come from a coal mining district. I say that, and I know something about it.

Judge VINSON. My understanding is that it is an hour longer at the face.

Mr. WINTER. Well——

Judge VINSON. I am just handing that to you.

Mr. WINTER. It all comes down to the difference of 15 minutes that they take out in the noon hour, that they shorten their lunch time. That is all they are actually working. That is the difference. They get travel pay going in and out and all of that. That is getting away from the point.

Judge VINSON. Our understanding—of course, that does not answer this, but our understanding is entirely different.

Mr. WINTER. That is getting away from what I had in mind anyhow.

What I wanted to get at was if in one instance it does not violate the Little Steel formula, why does it violate it in another, when there is an over-all increase for an entire industry?

Judge VINSON. I do not think Little Steel enters into that at all.

Mr. WINTER. All right; which one of these seven does it come under?

Judge VINSON. I think it was a question of more time at the face, working time; question of time and a half; and the question of travel time.

Mr. WINTER. Now, which one of these seven standards that you set up in your statement yesterday that allow increases under the Stabilization Act and the President's hold-the-line order, was the increase granted to the coal miners?

Judge VINSON. Well, it just simply is a question of more work and more pay. That is all there is to it. That is all I can say about it.

Mr. WINTER. Well, of course, you and I cannot agree on that; but I cannot get my mind clear on why the formula would work in one industry and if you gentlemen down there can, like Mr. Brown says, agree in one instance, why you could not work it out in another.

Judge VINSON. I would be very happy to read the coal opinion and append a statement that might be helpful to you.

Mr. WINTER. So far as I am individually concerned——

Judge VINSON (interposing). I would be glad to do that.

Mr. WINTER. I would like to hear it.

(The matter referred to is as follows:)

SUPPLEMENTAL STATEMENT BY FRED M. VINSON, DIRECTOR OF ECONOMIC STABILIZATION, TO THE COMMITTEE OF INTERSTATE AND FOREIGN COMMERCE

(S. J. Res. 91 and H. J. Res. 187)

COMMENTS ON THE RELATION OF THE COAL MINERS WAGE CASE TO THE NON-OP CASE

The questioning on Thursday and again on Friday implied that the last coal miners wage case was decided without reference to the wage standards of the stabilization program, and that similar treatment might therefore properly be given the railway workers in the face of a strike threat. This suggestion is based, if I may say so, on a misunderstanding of the coal case. As I stated in my testimony, that case did not come to my office by reason of the Smith-Connally Act. That act, in section 5, provided that contracts between the Government while operating a plant, mine, or facility and the employees thereof must be approved first by the National War Labor Board and then by the President. The coal case followed that route. That does not mean, however, that the contract was not measured by the wage standards of the stabilization program. On the contrary, the Smith-Connally Act specifically subjects such contracts to all acts of Congress and Executive orders issued thereunder. The only change effected by that act was one of procedure rather than in the substance of the act of October 2, 1942, and the Executive orders issued thereunder. It was, therefore, the National War Labor Board's responsibility in the first instance and that of the President in the second to insure the coal agreement conformed to the wage standards of the stabilization program. Exercising that responsibility, the National War Labor Board approved the Ickes-Lewis agreement as involving no increase in the basic hourly rate over that called for by the old contract. The Chairman of the National War Labor Board issued a statement at the time of the Board's approval in which he stated that the extra pay provided by the Ickes-Lewis contract "is for extra work paid for at the old rate or for overtime pay required by the Fair Labor Standards Act." Thereafter, the President approved the agreement, but at the same time appointed a committee to study underground travel time in the coal mines to insure when an agreement between the operators and miners was submitted to the Board that it could determine with precision whether any forbidden wage increase was involved.

By reason of the Smith-Connally Act, it is true the coal miners' wage agreement was not submitted to me as it would have been otherwise and I have exercised no jurisdiction over that wage case. I do state that the Ickes-Lewis agreement passed muster under the standards of the wage stabilization in the judgment of the National Labor Board as involving no wage increase apart from the Fair Labor Standards Act. Finally, I would point out that the coal miners wage' case has not yet been fully determined. The question as to what sort of wage contract between the operators and the miners can be approved has not as yet been decided by the National War Labor Board. After a decision by that agency the case, as one involving a request for an increase in ceiling prices, will in all probability come to my office. It clearly would be inappropriate for me, under these circumstances, to comment independently on the merits of the case.

I have this question to ask. You state they got this increase by reason of some overtime pay and taking that into consideration, of course, that would violate the Little Steel formula.

Judge VINSON. No; overtime pay does not violate the Little Steel formula.

Mr. WINTER. You mean it would not violate Little Steel?

Judge VINSON. That is right. Little Steel is based upon straight-time hourly earnings.

Mr. WINTER. Now, Mr. Jewell testified, as I understand, in answer to my question, that he had discussed this matter, he and his committee, with the President, and at the time the President agreed to the 8 cents.

Judge VINSON. I read that testimony.

Mr. WINTER. And that the President had told them that if they succeeded in getting this 8 cents increase—not that if Congress gave it to them—but if they succeeded in getting it, that the President would send to the Congress a message recommending a 40-hour week in the nonoperating railway workers' agreement.

Now then, if that were to happen, would not that entail an increase of at least 7½ cents an hour more under the 8-cent rate and about 6¼ cents under your figures of 4 to 10 cents sliding scale?

Judge VINSON. My understanding is based upon the statement in the report of the First Emergency Board that if time and a half were allowed after 40 hours, it was their statement, as I recall it, it would be equivalent to a 6-cent per hour increase for the nonoperating group.

Mr. WINTER. That would not be violative of the Little Steel formula?

Judge VINSON. No, sir.

Mr. WINTER. Even though that change was made after the Little Steel formula was set up?

Judge VINSON. That is right. You see at the present time and as I understand, at their request, the railway workers were excluded from the operation of the Fair Labor Standards Act.

Now, the time and a half could be granted either by act of Congress removing that exemption, or by agreement between management and employees.

Mr. WINTER. That is all, Mr. Chairman.

Mr. WOLVERTON. Mr. Chairman.

The CHAIRMAN. Mr. Wolverton.

Mr. WOLVERTON. Judge, I had another thought in connection with this matter. It seems to me to have a direct bearing upon it. There was an agreement entered into between the carriers and the men, and you have disapproved that agreement?

Judge VINSON. No; they had not entered into any agreement at the time I disapproved the nonoperating recommendations of the nonoperating case.

Mr. WOLVERTON. There had not been an agreement entered into?

Judge VINSON. No; no.

Mr. WOLVERTON. I was under the impression that there had been.

Judge VINSON. It was a dispute case, as I understood it.

Mr. WOLVERTON. What was the agreement?

Judge VINSON. The agreement was entered into August 7, 1943.

Mr. WOLVERTON. Let us get this straightened out. What was the agreement of February 1, 1943?

Was there not an agreement entered into between that time and——

Judge VINSON (interposing). Between management and labor?

Mr. WOLVERTON. Yes.

Judge VINSON. In the nonoperating case?

Mr. WOLVERTON. Yes.

Judge VINSON. No, sir.

Mr. WOLVERTON. I would like to look further into it. I understood yesterday there had been. Well, the point I am coming to is this: Was there any opportunity given to any of these interested parties to appear before you and present their case and have a hearing before a decision was made?

Judge VINSON. Speaking of the first action?

Mr. WOLVERTON. Well, the final action, or any action.

Judge VINSON. Well, before the first; before the disapproval of the recommendation of the First Emergency Board, there were no hearings or conferences with either parties, with either the railroads or the brotherhoods. After that time, why, I had several conferences with them, but no hearings, you might say, no formal hearings.

Mr. WOLVERTON. Well, men have the right——

Judge VINSON (interrupting). This should be stated, on the day following the determination of the disapproval of the recommendation of the first Board, I had a conference with representatives of the brotherhoods, the nonoperating group, and representatives of the railroads, and I told them that the determination had been made the day before and that the reason the railroad representatives were there, was if they were going to discuss the matter in the form of a request for a reconsideration or anything of that kind, I wanted both parties represented, and it was stated that that was not their purpose at that time, so the representatives of the carriers withdrew and we had quite a long conference that day, and then at other times. I do not know how many times they have been to see me.

Mr. WOLVERTON. Well, the point I am coming to is this, that it seems to me where rights of individuals are concerned, with pay being considered a property right, and the conditions under which they work also a property right, that it takes on the nature of a contract, and I am not quite clear how far a Federal official can go in making orders that would deny the principle of due process of law.

Judge VINSON. Of course, they had a hearing before the emergency board.

Mr. WOLVERTON. Do you feel that all of the provisions of the principles of due process of law have been complied with in the making of this order or in the action you have taken?

Judge VINSON. Well, I would think so, Mr. Wolverton.

Mr. WOLVERTON. I have some very grievous doubt about it.

Judge VINSON. I do not believe the point ever was raised before me, at any time.

Mr. WOLVERTON. This agreement that I had in mind—and I may have gotten mixed up somewhat in this—but the agreement that I have in mind reads:

> This agreement made as of August 1, 1943, by and between the participating carriers listed in appendixes A, B, and C, attached hereto and made a part hereof and the 15 signatories representing the employees and shown and described on said, witnesseth. It is agreed that section 1—

and so forth and then under the different classes there it has the hourly rates, add 8 cents to existing hourly rates of pay.

I may be reading it too hurriedly, but I thought that agreement was in the picture some place.

Judge VINSON. I take it that that is the agreement that was probabaly signed August 7.

Mr. WOLVERTON. I think probably that is it.

Judge VINSON. Yes.

Mr. WOLVERTON. Because it reads:

"This agreement made as of August 1st"

so it may have been signed at some subsequent date.

Judge VINSON. Of course, that has a provision there something about if it meets the requirement of law, or something of that sort.

Mr. WOLVERTON. Well, assuming that that is in there, in the agreement that is made, whether it is stated in the agreement or not, it is assumed to be in conformity with the law, or at least not in contravention of it, and the mere statement of it does not add anything to it.

Judge VINSON. Probably—of course, this is hearsay—I do not know that it is hearsay, because it came from some of those who participated. There was quite some discussion about the provisions in regard to the contract and the stabilization program.

Mr. WOLVERTON. Well, I do not think there is direct reference to the stabilization program in the agreement.

Judge VINSON. Not in the language itself. I think one draft had more specific reference to it, but when they finally got down to it they used the language that is in the contract.

Mr. WOLVERTON. Well, there may be a difference of opinion—I do not know—with respect to the interpretation of that language that is in the act. To me it does not take on as much significance as it evidently does to you. I am thinking of the basic thought of the right of individuals to contract for their services, and of the right of an individual in the Government to set that aside without complying with the principles of the due process of law. That is the thought I am interested in and I intend to pursue that thought when Mr. Richberg testifies, because I am inclined to think, on the slight consideration I have been able to give to it, that there has been some violation of that principle.

Judge VINSON. If Mr. Richberg, of course, does not agree with me, it will not be the first time we have been in disagreement and it may not be the first time both of us have been found to be wrong. Is that right, Mr. Richberg?

Mr. RICHBERG. Yes. I think that is a fair statement.

Judge VINSON. I am just referring to a certain case that is in the books.

Mr. WOLVERTON. In your statement of yesterday you did make reference to this contract when you said the final contract as written, incorporating the 8-cent increase. That is what I had in mind when I asked my first question. I had in mind an agreement entered into between the parties.

Judge VINSON. But, as I understood your question, Mr. Wolverton, you pointed it as a contract that had been executed prior to my disapproval.

Mr. WOLVERTON. No; I want to know—what I am interested in knowing—is how far a Federal official can go in setting aside an agreement entered into between parties, such as this, without complying with the right of a hearing and an opportunity to be heard and in the general way, compliance with the due-process-of-law principles. I cannot believe that Congress intended by any act it has passed that it intended to set aside constitutional provisions as well established as that one.

Judge VINSON. Well, there certainly was a hearing.

Mr. WOLVERTON. There was no basis, however—was it in the form of a hearing in the sense you have a hearing in a court and an appeal could be taken, or anything of that sort? Is there no appeal?

Judge VINSON. I am speaking of a hearing before the emergency board where witnesses were offered.

Mr. WOLVERTON. I am speaking of the hearing before you took the action of June 30.

Judge VINSON. When you have appellate review, of course, you do not introduce witnesses. You have briefs. There were no briefs considered in this case by me.

Mr. WOLVERTON. But you have an opportunity to be heard in an appellate proceeding. The record may have been made in the court below, but that does not deny you the right to appear and argue the subject matter of your appeal.

I am speaking of it in not a restricted sense. I am speaking of it in a broad way, as to whether an opportunity had been given for these interested parties to appear before you and argue their case before you made the order of June 30. I understand the answer to be no, that there was no opportunity.

Judge VINSON. There was no hearing, sir; no formal hearing before me.

Mr. WOLVERTON. Looking at it in just a quick sort of a way, it seems to me that that has indication of being a violation of that very well-established principle of due process of law. I do not think courts can do that, unless they are given the final authority, such as the Supreme Court.

Judge VINSON. I will be glad to submit you a statement, Congressman, in regard to my views on that, plus another phase of legal argument that was made by Mr. Richberg before the subcommittee. It had not appeared here, and I did not care to address myself to it. That is this particular language of the statute which he dealt with quite at length. It is section 1 of the act of October 2, 1942, and I ask that the section be inserted at this point.

The CHAIRMAN. Very well.

(The section referred to is as follows:)

SEC. 1. That in order to aid in the effective prosecution of the war, the President is authorized and directed, on or before November 1, 1942, to issue a general order stabilizing prices, wages, and salaries, affecting the cost of living; and, except as otherwise provided in this act, such stabilization shall so far as practicable be on the basis of the levels which existed on September 15, 1942. *The President may*, except as otherwise provided in this Act, thereafter *provide for making adjustments* with respect to prices, wages, and salaries, *to the extent that he finds necessary* to aid in the effective prosecution of the war or to correct gross inequities: *Provided*, That no common carrier or other public utility shall make any general increase in its rates or charges which were in effect on September 15, 1942, unless it first gives thirty days notice to the President, or such agency as he may designate, and consents to the timely intervention by such agency before the Federal, State, or municipal authority having jurisdiction to consider such increase. [Italics mine.]

Now, if Mr. Richberg takes the same position before the committee that he did before the Senate committee, I would like to treat of that legal argument as well as the due process of law.

The CHAIRMAN. Very well. Thank you, Judge. I take it you have concluded?

Judge VINSON. There is one minor thing that I want to correct.

The CHAIRMAN. Very well.

95000—44——9

Judge VINSON. On page 9 of the mimeographed statement, paragraph 3, the last sentence, that should read—

> An additional 4 cents per hour for the operating employees would make a total increase of $85,000,000.

The CHAIRMAN. Very well.

Judge VINSON. And I take it that I will have the usual privilege accorded to revise my remarks?

The CHAIRMAN. Yes.

The committee will stand adjourned until 2 o'clock.

(Thereupon, at 1 p. m., the committee took a recess until 2 p. m. of the same day.)

AFTER RECESS

(The committee resumed at 2:15 p. m., pursuant to recess.)

The CHAIRMAN. The committee will come to order. Mr. Richberg.

STATEMENT OF DONALD R. RICHBERG, REPRESENTING THE 15 COOPERATING RAILROAD LABOR ORGANIZATIONS

Mr. RICHBERG. Mr. Chairman and members of the committee, I think the issues in this matter have been both clarified and somewhat confused during the testimony of Director Vinson, and if it will meet with the pleasure of the committee, I should like to make a brief formal statement in the hope of at least making the issues a little more clear and then take the opportunity to answer any questions, which I would be delighted to receive.

The statement presented to this committee yesterday and today by the Director of Economic Stabilization is a legal argument intended to justify his exercise of an authority which has not been granted to him, through a procedure which has never been authorized and is contrary to established principles of law and fair play.

It may clarify the present situation, first, to review the legal issues raised by Director Vinson and, second, to call attention to the legal issues which he did not discuss.

Director Vinson contends that the Stabilization Act of October 2, 1942, does not exempt railway wages from its control and that, since he has been delegated by the President the authority which was conferred on the President in the Stabilization Act, he had authority to prevent the increase of railway wages recommended by the Presidential Emergency Board in its report May 24, 1943, and embodied in the agreement between carriers and their employees dated August 7, 1943.

It is true that the Stabilization Act does not make a specific exemption of railway wages; but the act, taken in conjunction with the Emergency Price Control Act of 1942, to which it was an amendment, shows a clear intention to eliminate the fixing of railway rates and railroad wages from the same controls established over commodity prices and industrial wages in general. The Emergency Price Control Act, the original act, specifically provides that that act shall not be construed to authorize the regulation of "rates charged by any common carrier or other public utility." The Stabilization Act provides no further regulation of public-utility rates but simply that such rates shall not be generally increased except after notice to the President and consent to intervention "before the Federal, State, or municipal

authority having jurisdiction to consider such increase." The Stabilization Act also provides that the President may suspend certain provisions of the Emergency Price Control Act but that "he may not under the authority of this act suspend any other law or part thereof."

Thus we start with the express mandate of the Congress that the President has been denied any authority to suspend the Railway Labor Act or any part thereof. The President recognized this limitation upon his authority in Executive Order 9250, which he issued immediately after the Stabilization Act, wherein it was provided that—

> nothing in this order shall be construed as affecting * * * the adjustment procedure of the Railway Labor Act.

The War Labor Disputes Act, commonly called the Smith-Connally Act, passed June 25, 1943, shows clearly the intention of the Congress to deal separately with the subject of railroad labor relations and wages. This act excludes from its coverage—

> a carrier, as defined in title I of the Railway Labor Act, or a carrier by air subject to title II of such Act.

The act empowers the National War Labor Board to settle labor disputes in general but provides—

> The Board shall not have any powers under this section with respect to any matter within the purview of the Railway Labor Act, as amended.

So you will see that up to this point every expression of Congress has indicated a clear intention to keep the adjustment of rates and wages affecting the railroads outside the general stabilization machinery.

But is is the argument of Director Vinson that, although the "procedures" of the Railway Labor Act have been left in full force and effect, nevertheless, when, after the procedures of the Railway Labor Act have been followed and a wage increase has been awarded or agreed upon, then such an increase cannot lawfully be put in effect without the approval of the Director of Economic Stabilization. But it should be seen at once that if, when the objectives of procedures under the Railway Labor Act have been accomplished, there is a veto power conferred on officials not authorized to take action under the Railway Labor Act, the result is to amend the Railway Labor Act in a vital and drastic manner.

Before the Emergency Board was appointed by the President to hear the case involving the nonoperating employees, there was a question raised as to whether the National War Labor Board had, or should be given, any power to review the recommendations of an emergency board appointed under the Railway Labor Act. It was clear that submitting a dispute to such a board would involve an enormous waste of time and effort if it would be necessary to try the issues all over again before another board. It was pointed out that such a proceeding would strip emergency boards of all practical usefulness and would violate the provisions of the Stabilization Act because, if authorized by the President, it would amount to an attempt on his part to suspend a part of the Railway Labor Act, and I might mention in passing that in these discussions I know it was a fact that the Railway Labor Panel, which was a panel of distinguished authorities in the field of law, economics, and public relations, the members of that panel had very clearly expressed themselves that if they were to be just an intermediary board, whose findings would have no effect, you could not get men of such caliber to act in such capacity.

It must be recognized that if a tribunal authorized by the Railway Labor Act, which has been effective for years to bring about the settlement of disputes, is made futile by superimposing the superior authority of another tribunal, the result is not only a suspension, but an amendment of the law. Certainly when the President was denied power to suspend any law, it was assumed that he was not unconstitutionally granted legislative power to amend a law enacted by the Congress.

As the result of these discussions, the President issued Executive Order 9299 specifically denying to the National War Labor Board any authority to rule on railway wage increases. Executive Order 9299 provided that no increases in railway wages rates should be made except in accordance with the provisions of that order, but also provided that—

> nothing contained in this order or Executive Order No. 9250 shall be construed as affecting the procedure or limiting the jurisdiction of either the National Mediation Board as defined in the Railway Labor Act, or the National Railway Labor Panel, as defined in Executive Order No. 9172, except as herein specifically set forth.

It was then provided that the chairman of the National Railway Labor Panel could permit a proposed change to become effective unless he had reason to believe that it would not—

> conform to the standards prescribed in Executive Order No. 9250, or to the general stabilization program made effective thereunder, or to the directives on policy issued by the Economic Stabilization Director thereunder.

In the latter event the chairman of the National Railway Labor Panel was authorized to designate three members of the panel as an emergency board to investigate and report to the President, certify that their recommendations conformed with the requirements just quoted.

Now, let it be noted that under this order 9299, the chairman of the National Railway Labor Panel himself—no reference to the Economic Stabilization Director—could permit a proposed change to go into effect if it, in his opinion, conformed to those standards which were listed in the order. But if he had any doubt, then he could appoint this Emergency Board, composed of three members to report upon it; and then it was provided that any such Board, or any Emergency Board of the general nature created under the Railway Labor Act, should certify that their recommendations conformed to the requirements of the stabilization program. In other words, the President left within the circumference of the Railway Labor Act the handling of those disputes and the determination that any recommendations conformed to the requirements of the stabilization program.

Now, up to the present point it is clear that the President was simply providing for the adjustment of disputes in accordance with the Railway Labor Act. It is true that he was seeking to make sure, first, that agreements reached between carriers and employees were in conformity with the general requirements of the Stabilization Act and that Emergency Boards would make recommendations to the President which were in conformity with those requirements. It might reasonably be argued that the President himself, in fulfilling his duties under the Stabilization Act and also his duties under the Railway Labor Act, should make sure that railway wages should be established consistently with other wages. But let it be noted the President did not supersede the procedures authorized by the Railway Labor Act

or superimpose further procedures which would amount to a suspension or an amendment of the Railway Labor Act.

It is the apparent contention of Director Vinson that in paragraph 5 of Executive Order 9299 the President created an authority in the Economic Stabilization Director superior not only to the powers of tribunals authorized in the Railway Labor Act but actually created an authority superior to the authority of the President himself. Certainly the provisions that copies of an Emergency Board report should be filed with the Economic Stabilization Director, and that he might report to the President the effect of the recommendations on the general stabilization program, did not create the authority that Director Vinson has assumed to exercise.

This is all that sentence provides. It provides that copies shall be filed with the Economic Stabilization Director, the National War Labor Board, and the Commissioner of Internal Revenue. The Economic Stabilization Director may, on behalf of himself, or other departments and agencies concerned, report to the President the effect of the recommendations on the general stabilization program. In other words, the President was asking one of his aides to examine recommendations and make a report to him as to whether they thought it interfered with the program, or was otherwise to be questioned. The President was still retaining the power conferred upon him in the Railway Labor Act and he was not giving authority to anyone else to exercise authority over the procedures under the Railway Labor Act.

So Judge Vinson must rely entirely upon the last sentence of paragraph 5, which reads as follows:

> * * * Unless and except to the extent that the Economic Stabilization Director shall otherwise direct, the recommendations of the Emergency Board in regard to proposed changes affecting wages and salary payments shall, upon the expiration of thirty days after the report is filed with the President, become effective.

Director Vinson seems to have overlooked the fact that the recommendations of an Emergency Board are only effective as recommendations. They are not decisions. They are not made effective in the Railway Labor Act as awards or decisions, that is, as a compulsory settlement of the dispute. The only effect, therefore, of any attempted disapproval or modification of recommendations of an Emergency Board by the Director would be an expression to the President of his view that the President should not urge the parties to make an agreement in accordance with those recommendations.

Unfamiliarity with the history and operation of the Railway Labor Act by Director Vinson and his advisers may account for this misunderstanding of the law. Under the law, the parties are prohibited for 30 days after an Emergency Board reports to the President from making any change—

> except by agreement * * * in the conditions out of which the dispute arose.

The clear purpose of this provision was to allow the President 30 days in which to induce the parties to make an agreement if the parties were unwilling to do so spontaneously. The duty of finally bringing about a settlement has always rested, under the Railway Labor Act, with the President.

This is not an appropriate time to go into a review of the history of this legislation before the Congress with which I am exceedingly familiar, as I participated in the hearings in 1926, but I can state without any fear of contradiction that in the discussions on the section of the act which created the Emergency Boards, the question was constantly raised, What good is to be accomplished by this fact-finding board which can only make recommendations? And it was pointed out that the way the act would work is that it would create the force of public opinion behind the President in his efforts to bring the parties into agreement in accordance with the recommendations made. That has been the administrative construction and operation of the act for 17 years and that is the way it has worked to prevent the interruption to interstate commerce by strikes on the railroads.

The President appoints an Emergency Board in which he is assumed to have confidence. The Board reports to the President. If the recommendations are not acceptable to the parties, the President undertakes to bring about a settlement. There is no provision in the Railway Labor Act for any delegation of this authority. The only powers which the President delegated to the Economic Stabilization Director were his powers under the Economic Stabilization Act. He was not authorized to, and could not, delegate his powers under the Railway Labor Act. And I have called attention to the extraordinary misconstruction of this by Judge Vinson, because he did not even follow the provisions of the act itself. He did not make a report to the President as he was required to do, in the first instance I have read to you. He paid no attention to the President. He just assumed he had the authority of final determination and decision and, despite the fact that the President had already brought about an agreement of the parties, he proceeded to announce that the recommendations should not become effective although they already had become effective through the action of the President himself.

When we arrive at the conclusion that Director Vinson had no authority to interfere with the making of an agreement in accordance with the recommendations of the Emergency Board, we are supported by a consideration of what actually happened. The President conferred with the employees and urged them to make an agreement. They fixed a date to meet with the carriers. Director Vinson issued his order of June 22, on the very eve of the carrier-employee conference, without notice to anyone, without even informing the President, as he himself has stated. Thereby, after the President had fulfilled his duty under the Railway Labor Act, after the process had been practically completed, up to the actual signing of the document, the Economic Stabilization Director interfered, without authority, to prevent the making of an agreement in accordance with the recommendations of the Emergency Board, supported by the President. The processes of the Railway Labor Act were finally carried through, on August 7, 1943, to an agreement made in exact accordance with that act—an agreement urged by the President in full cognizance of his duties under the Railway Labor Act and the Stabilization Act. The Congress, in passing the joint resolution, would simply set its seal of approval upon the consistent construction of the laws enacted by the Congress, and undo the harm of executive misinterpretation of those laws.

Now, in order to deal with this subject in its entirety, I am going to make an assumption, or at least consider the contention of Director Vinson as to his authority, and I want to point out that even if one should accept the contention of Director Vinson, as the repository of the President's power under the Stabilization Act, he is authorized to disapprove of a wage increase, he would be confronted with two defects in the exercise of alleged authority which render the actions of the Economic Stabilization Director unlawful even in the exercise of such alleged authority.

In the first place, the President is authorized only to stabilize wages affecting the cost of living and in order to aid in the effective prosecution of the war. It takes a hairsplitting argument, and you have heard plenty of them, to support the contention that an additional wage increase of between $10,000,000 to $18,000,000 per year, about 1 percent of the annual pay roll of 1,100,000 employees, can affect the cost of living. But the President is also given a mandatory duty in the following language—and this is the provision of the act to which Director Vinson gave no consideration in his discussion before you, but said that if I referred to it, he would like to have an opportunity to reply. He knew precisely what my position was, and I think he might have given you the benefit of his attitude in his original statement.

The act provides this:

> The President may, except as otherwise provided in this Act, thereafter provide for making adjustments with respect to prices, wages, and salaries to the extent that he finds necessary to aid in the effective prosecution of the war or to correct gross inequities.

It has been heretofore pointed out that the law is well established that the word "may," as here used, must be construed as the equivalent of "shall," that the duty imposed on the President is not permissive, but mandatory. I will quote from a leading case in the Supreme Court of the United States, as follows:

> * * * without going into more details, these cases fully sustain the doctrine that what a public corporation or officer is empowered to do for others, and it is beneficial to them to have done, the law holds he ought to do. The power is conferred for their benefit, not his; and the intent of the legislature, which is the test in these cases, seems under such circumstances to have been "to impose a positive and absolute duty."

That is quoted from one of the leading cases, *Mason* v. *Fearson* (9 How. 248, 259).

The foregoing case has been repeatedly cited, and in fairly recent decision of the Supreme Court and in courts of the States, and states a doctrine that is well established law today.

It would be absurd to contend that the President had discretion to refuse to provide for adjustments necessary to aid in the effective prosecution of the war or to correct gross inequities. Clearly this is a mandatory duty.

The unchallenged findings of the Emergency Board show that its recommendations are, as certified, "necessary to aid in the effective prosecution of the war" and "to correct gross inequities." Indeed the Board reported "the correction of the gross inequities disclosed by the facts of record is indispensable to the effective prosecution of the war."

The public statements heretofore made by the Director of Defense Transportation, the admitted facts regarding the shortage of manpower for railroad service, and the impossibility of retaining competent employees without some wage increases, all demonstrate that the

obligations of the President under the Statbilization Act require approval of the agreement of August 7, 1943.

Finally, attention should be directed to the extraordinary reason given by Director Vinson for approving his sliding-scale adjustment, and disapproving the adjustment agreed upon with no substantial difference in total amount of the approved and disapproved wage increases.

Director Vinson made these representations to this committee:

1. The Director asserts that only local adjustments are permissible to correct gross inequities, and not a national adjustment. In other words, if 1,000 or 50,000 men in 1 plant are suffering from wages below prevailing sound wages in a particular area, then an adjustment can be made. But if 1,000,000 men all over the United States are suffering, no adjustment can be made. Where is the authority for that discrimination to be found in the law? Did Congress mean that only little gross inequities could be corrected, but big gross inequities must be maintained?

I give the Congress of the United States credit for a higher grade of intelligence than that.

2. The Director asserts that the Little Steel formula is not broken if gross inequities are corrected in a particular plant or a particular labor market area, but that gross inequities cannot be corrected in an entire industry. Where is the authority in the act of Congress for such a discrimination?

It should be noted, by the way, that the Little Steel formula was well known and considered by the Congress at the time the Stabilization Act was passed, but it was not written into the act. The present wage increases have not been justified under the Little Steel formula, or as a desirable break with the Little Steel formula. They were simply seeking to correct gross inequities. Director Vinson admits that the Little Steel formula is not affected by the correction of gross inequities of which he approves, but he claims that it will be broken by a correction of a gross inequity which he is unwilling to see corrected. The logic of this argument is impossible to follow. Congress laid down the standard of gross inequities, and it is a purely arbitrary act for anyone administering the act of Congress to decide that some gross inequities shall be corrected and others shall not.

Here again, I think it is perhaps pertinent to point out, we see a good reason for a different treatment of wage adjustments in the railroad industry from those sought in other industries. Railway-wage movements are practically always on a large scale, a national scale. Wages have been standardized for years throughout the country for many good reasons. I don't think it is necessary for me to go into that, but it is perfectly clear why wages have been standardized in the railroad industry. The same men operate trains from one section of the country into terminals where they exchange with employees of other roads. I need not go into the reasons, because I think they are fully accepted, for standardized wages in the railroad industry. It is not the result of organized-labor pressure, it is not something that was arbitrarily pushed on the industry. It is the result of the needs of the industry and the way the industry operates, and naturally and properly railroad wages are standardized throughout the United States, and have been for years.

Employees in other industries may proceed from plant to plant and city to city to have gross inequities corrected, but when railway employees proceed to have a gross inequity corrected throughout an industry, that correction is denied, without the grant of any authority to the President or his deputy to discriminate in that manner between local and national wage adjustments.

And I want to point out right there that I have just seen the latest report of the War Labor Board, in which there were some seventy cases in the month of September, of correction of gross inequities, purely on the ground of gross inequities involving some thirty-three thousand employees. Gross-inequity cses comprise the largest percentage of cases being handled by the War Labor Board.

Mr. HALLECK. How many cases did you say?

Mr. RICHBERG. Seventy cases in the month of September, involving some thirty-three thousand employees. These are purely gross inequity cases.

I would also point out that the average increase allowed in those cases is reported as 8.2 cents per hour.

The entire purpose of the Stabilization Act is to prevent inflation and a rising cost of living. There cannot be any distinction between the Vinson proposal and the agreement of August 7, 1943, in their effect on inflation and the rising cost of living. The agreement has been reached in accordance with the procedures of the Railway Labor Act, established by Congress for the settlement of labor disputes on the railroads. It is in full accord with all existing requirements of law. The wage increase proposed by Director Vinson was not arrived at in accordance with the elementary requirements of law. It was a decision reached in star chamber by an executive officer without anything resembling a proper hearing for the determination of property rights of great value. It was a decision purporting to overthrow the decision of a tribunal which had given a proper hearing. The so-called Special Board appointed October 16, 1943 was only authorized to make findings in accord with Director Vinson's opinion, so that his action gains no support from the redommendations of that Board.

Mr. O'HARA. Let me ask you right there; did Judge Vinson have a copy of the record made before the trial tribunal or, rather, the Board?

Mr. RICHBERG. So far as I know, he did not, and I think it was so stated. I am now speaking from hearsay. I think it was stated or understood in the conference between the men and Judge Vinson that he had never read the record. All he had was the original report of May 24, I understand, that is the report of the Emergency Board.

Mr. BROWN. Mr. Richberg, did Judge Vinson hear any statements from counsel whatsoever, made by you or anyone else?

Mr. RICHBERG. He gave no notice of his action to anyone, not even the President of the United States.

Mr. BROWN. He didn't follow the procedure of this committee and hear both sides?

Mr. RICHBERG. Oh, no. I understood the railroads may have submitted some sort of a brief to Judge Vinson, but even that he claimed he did not read. So apparently he acted simply on the report and his own treasured knowledge.

On that point I want to point out that I thought perhaps Mr. Vinson might refer to the latter so-called Special Emergency Board, and I want to point out that the Special Board appointed October 16, 1943, was only authorized to make findings in accord with Director Vinson's opinion, so that his action gains no support from the recommendations of that Board. In other words, Judge Vinson handed down his opinion in June without hearing anybody, without giving any consideration, even when the President appointed this Special Board, not under the Railway Labor Act, as he admitted—he said it was under his War Powers Act or something of that sort. I don't know what the War Powers Act had to do with it—but, anyhow, he pointed out, and I am not complaining about that, that the Board was appointed to do this—

> to recommend to him such wage adjustments which should be made within the limitations of the act of October 2, 1942, and Executive orders thereunder * * * and in conformity with the opinion of the Economic Stabilization Director of June 30, 1943.

Mr. BROWN. Who made that order?

Mr. RICHBERG. This was the President's order appointing this Special Board, so the Special Board as I pointed out, when I appeared before it, had no powers whatsoever, except to make an advisory report as to how Judge Vinson's previous opinion could be carried out.

Mr. HALL. It is the case, however, that the President and Judge Vinson knew what each other was doing, is it not?

Mr. RICHBERG. Oh, by this time, yes. By this time we had reached the unhappy situation where we had the action of the President and his deputy in apparent conflict, and effort apparently was being made to resolve it.

I will say that we had no hearing in any sense before that Special Board. I appeared before the Board and presented our reasons for objecting to any action by the Board as being without any authority, and that under the cricumstances they ought to advise the President that the law had been violated, and he should proceed in accordance with the law. The Board was not qualified to consider the matter. We certainly would not have gone before that Board and presented arguments and hearings all over again, after 44 days of hearings before the Emergency Board which had passed on this case, and had received some 6,000 pages of testimony with an enormous number of exhibits, and spent weeks in its deliberations. And the Special Board was not authorized under the Railway Labor Act, and we would have simply been conceding away our position, which was that this matter had been properly settled.

Mr. CROSSER. Have you finished your statement?

Mr. RICHBERG. No, there is just a paragraph or two more.

Mr. O'HARA. One of the questions that is troubling me is, how does the employer and the employee know when a matter has finally reached the point of determination?

Mr. RICHBERG. Under the Railway Labor Act, the declared purpose is to have employers and employees make and maintain an agreement. That is the declared purpose of it, to make and maintain an agreement, and if there was interference at some level, in some lawful manner by some lawfully constituted officer, we would not be back to Congress, but when the law is completely misinterpreted, and when a law which Congress says shall remain in force has been suspended by Executive

action, we are forced to come back to Congress and say we would like to have the law remain in force.

Mr. WINTER. But you are not asking for that relief here. You are asking for specific relief in the granting of an increase in wages.

Mr. RICHBERG. No. What the resolution provides for is that Congress declare this agreement as a valid agreement, and as in accordance with the requirements of law. I will come a little later to the propriety of that action by Congress. It has long precedent. There is nothing unusual or strange about asking Congress to pass a declaratory act.

Mr. HALL. Ordinarily when would this wage agreement of August 7 have become binding?

Mr. RICHBERG. It would have, and did, become binding August 7.

Mr. HALL. Does the President have anything to do with that agreement after it is signed?

Mr. RICHBERG. Not in this case, because the President asked us to make such an agreement.

Mr. HALL. And the agreement was sent to him?

Mr. RICHBERG. The agreement was, as a matter of fact—I don't know exactly the form in which it was put into the White House, but I know it was sent to the White House, and Justice Byrnes at least had a copy of it, and the President had a copy of it as well.

Mr. HALL. And he has no authority whatever to make recommendations to change the agreement or suggest amendments?

Mr. RICHBERG. As to that question, I would say it is academic in this situation, because the President had acted upon the recommendations of a Board under the Railway Labor Act, and he said, "I think this should be carried out." One could hardly expect him then to turn around and say, "No; I don't want you to do it."

Mr. HALL. I am wondering, then, why this is not in his lap and not in ours.

Mr. RICHBERG. It would be in his lap, except for the apparent misunderstanding of the law which Congress has passed. You can tell from Director Vinson's argument that he thinks he has been placed in the position of being the final court of review of all action taken under the Railway Labor Act, which we say is not in accordance with any authority he has proceeding from Congress.

There is now presented simply the question as to whether the mistaken, unlawful action of an executive official shall be permitted to stand in the way of the assertion of the supremacy of the law. Corrective action is sought from the body that made the law. There was no contention in Director Vinson's long statement that he had any authority to fix wages, and I don't know where he would find even a pin hook on which to hang that. It can be assumed that at the most he would only claim authority to prevent wage increases, and yet Director Vinson is today insisting that the railroads should put in effect the wage increases which he has proposed, although that would be an act in direct violation of the requirements of the Railway Labor Act, because that act provides exactly how wage increases shall be brought about, by an agreement between the parties, before a carrier can put in any change in wage rates.

Thus, we have an assumption on the part of an executive official of authority not only to suspend this law, but to compel those subject to the law to violate it, although, under the law, they would be subject

to prosecution, to fine and imprisonment if they should change the rates of pay otherwise than in the manner prescribed in their agreements with their employees or in accordance with the procedures provided in the act. In order to distract attention from the arbitrary exercise of Executive authority, we have two hobgoblins raised: First, that the Little Steel formula will be broken, although it is in no way involved in this issue, as even Judge Vinson himself practically admitted; second, that the increase of a pay roll over $1,740,000,000 a year by the amount of between $10,000,000 and $18,000,000 will threaten the stability of the rate structure—he actually brought that in yesterday—and give the railroads an opportunity to seek a rate increase, although they decline to support the absurd contention that such a trifling addition to the pay rolls could be the basis for a request for increased rates for railroad transportation which is now returning to the carriers the greatest revenues which they have ever enjoyed.

Mr. PRIEST. I understood you to say the wage schedule that he had proposed. Judge Vinson, as I recall, in his testimony, made the very clear statement that he had made no proposal himself. It was simply a veto, as I understood. This schedule of rates, as I understand, was not proposed, but was worked out, perhaps in conformity with the suggestions he made. Is that correct? He did not actually propose any wage scale.

Mr. RICHBERG. I don't know what conferences or discussions he may have had with the Emergency Board. I know his opinion said he would approve of exactly this sort of wage scale, that is, starting at 10 cents and going to 4 cents for the top men. It took the Board, apparently, to sit down and figure on the brackets of the wage payments, where they should divide the money, so that in the end there would be practically the same amount of increase, but it was to be distributed in a different manner. That is the mechanical manner in which this Board acted on it. The rest of it was simply carrying out and implementing Judge Vinson's opinion.

Here is extraordinary pressure on the part of an executive to enforce an illegal act upon the people. On December 8, here was this letter, written by Judge Vinson, while these hearings were in progress, after the Senate had passed this resolution. The carriers, in a letter of November 30, had asked whether he meant by his previous request that they were required to put this into effect, and he says:

> In response to your letter of November 30, 1943, it is my opinion the railroads are required by law to put into effect the graduated wage increases for the nonoperating railway employees which were recommended by the Special Emergency Board and not disapproved by me. It is my view that such increases have been effective since November 19, 1943, just as the 4-cent increase for the operating employees has been effective since October 26, 1943.

Here are these unhappy carriers who are still living under the Railway Labor Act, and they still have a lively respect for the law, which imposes penalties and even imprisonment for its violation—and here is that provision of the Railway Labor Act, section 5:

> No carrier * * * shall change the rates of pay as embodied in agreements, except in the manner prescribed in such agreements or under section 6 of this act.

Section 6 requires conferences, mediation, and so forth. And then in the tenth paragraph of that same section 2, it is provided:

> The refusal of the carrier to comply with the terms of sections 2, 3, 4, 5, 7, and 8 of this section shall be a misdemeanor, and upon conviction the carrier offending shall be subject to a fine of not less than $1,000 or more than $20,000 or imprisonment for not more than 6 months, or both fine and imprisonment for each offense, and each day during which such carrier shall willfully fail or refuse to comply with the terms of this section shall constitute a separate offense.

We have the extraordinary spectacle of an officer of the Government, not willing to wait upon the deliberations of Congress, but attempting to force the carriers to carry out his unlawful order for which he has no authority whatsoever, the carrying out of which he has ordered in the teeth of an act of Congress which he has not suspended and has no authority to suspend.

Mr. HALL. Do the attorneys for the carriers agree with you as to the illegality of this act?

Mr. RICHBERG. I don't think I can speak for them, and I think it is only fair to say that the attorneys for the carriers are in a position which does not embarrass me. They are representing very large properties subject to regulation by the Federal Government, and they certainly would not want to come in conflict with the officials of the Federal Government, and whatever their feelings may be on this subject, I would not wish to detail them, and I think they would find themselves considerably embarrassed in giving a frank answer to that question.

Mr. HALL. Could not a test case be made out of this thing? If they would pay one of these men under this contract you have entered into, could they then go to court on it?

Mr. RICHBERG. There are all sorts of possibilities of litigation. But that is exactly the difficulty we confronted when a similar question was raised by this special board. They said, "Why don't you go into court with this?" I said, "Unhappily, I am here as a lawyer advising in this matter, and I could not advise my clients that a court proceeding that would take, at the earliest, 12 to 18 months to conclude, would be any relief in this situation, and I cannot assume that a lower court judge would grant any immediate relief in a situation of this density, with all the conflicting questions and prejudices that would be raised in a case of this kind, so that, in other words, I would be hopeful of getting some relief eventually from a higher court if we proceeded with such litigation."

Mr. HALL. Do I understand you to say, then, that you are here before us merely because of the speed required?

Mr. RICHBERG. No; I simply give that as one reason. The other reason is that I think it is of grave importance to the entire country, not only in this, but in other matters, to have a definition and clarification of a law which I think has been so seriously misinterpreted, and the actions of the Director of Economic Stabilization under this law affect not only these employees but affect other employees throughout the country.

Mr. HINSHAW. Why is not an amendment to the law submitted?

Mr. RICHBERG. It seems, so far as we can see, that the law is all right. We find the executive misinterpretation of the law—and may I just refer to the fact, because I found in the early discussions there seemed to be the idea that there was something unusual or extraordinary in this situation. As a matter of fact, going away back into the early days of the Republic, declaratory acts have been passed by the Congress to correct misinterpretations or misapplications of the acts of Congress. The early and leading famous case on the subject is one where Congress acted to reverse a decision of the court. In

other words, to reverse a decision of the Supreme Court of the United States, which had held that certain bridges were obstructions to navigation in interstate commerce, and the Congress passed an act declaring that those particular bridges were not obstructions to navigation, and then the matter was litigated back to the Supreme Court, in the famous *Wheeling Bridge case*, and the Supreme Court said that was within the province of the Congress, that Congress had the power to determine what is an obstruction to interstate commerce, what is an obstruction to navigation, and that if Congress so decided that these particular bridges were not, that was within the power of Congress to decide, and it accepted the decision of the Congress.

There are many other cases where there have been questions of the construction of law, and sometimes where questions have been raised, the Congress has passed a declaratory act specifically defining some provision of the law.

Mr. HALL. I think that may be so in a number of cases where the Supreme Court has ruled, but has not Congress ordinarily waited until the law has been construed by the Supreme Court? Here we are construing a law before any court has looked at it.

Mr. RICHBERG. No, most of the cases have not been of that type. Most of them have been where there was a question in the departments, for example, as to the application of the revenue laws, and Congress has passed on other cases, defining specifically or explaining its particular meaning as to phrases in the revenue laws. Cases of that kind are comparatively infrequent, but there are plenty of them so far as precedent goes. Congress is not being asked to do anything extraordinary or unusual in this case.

The only question here is whether this contract is subject to any action of the Economic Stabilization Director. Now, if this Congress, through its grant of authority to the President, which is in a sense the application of legislative power—if Congress has not intended to grant such authority, the best thing that could happen would be to clear it up, and to clear up the powers of the Economic Stabilization Director, and for Congress to make clear that these procedures under the Railway Labor Act are to be carried to their conclusion without the exercise of authority on the part of the Economic Stabilization Director. The President is still left in here as the guardian of the public interest. We have the President as the final person endowed with authority and having the duty under the Railway Labor Act to bring about an agreement.

Mr. HINSHAW. Then why is there not a proposal submitted to clarify the act, rather than to validate this specific agreement?

Mr. RICHBERG. I think I may say this; that in my contemplation of the matter, I would have said that there were two or three possible approaches by Congress in this matter. There might have been a legislative act in the nature of an amendment to the Stabilization Act, specifically directing how the matter should be handled under that act. But the simple fact of it is that here we face a critical situation, and I don't say that on account of the strike-vote situation. The strike vote was not in this picture and should not be in the picture as a determining element. The critical situation here involved is the fact that the railroads will not be able to hold the manpower they need if this action is not taken promptly. That is a situation that is critical throughout the country today—I do not refer to recent

wrecks; I am not going to make any mistaken allusions to the deficiencies of equipment. I don't know anything about that, but I know enough about railroading, with my considerable experience in the activities of these organizations over a long period of years, I know enough about railroading to know that when you permit your equipment to deteriorate, and the forces that handle that equipment to deteriorate, through losing your experienced men and having to take on inexperienced men, and inadequate help in numbers and competence, you are going to have disasters in this country to an extent that will shock the entire Nation.

Mr. HINSHAW. I appreciate that.

Mr. RICHBERG. That is to my mind a critical situation, the critical situation that confronts us, rather than whether there may be a strike, critical as that may be.

Mr. HINSHAW. Could not this matter be clarified by the President?

Mr. RICHBERG. As we see it, the President has already done so.

Mr. HINSHAW. He is the supreme Executive.

Mr. RICHBERG. Here the Economic Stabilization Director claims powers superior to those of the President.

Mr. HINSHAW. Mr. Richberg, he is an employee of the President.

Mr. RICHBERG. Well, in a sense, I suppose he is.

Mr. HINSHAW. And can be removed tomorrow, so far as that goes, or this afternoon, for that matter.

Mr. RICHBERG. I can't go into the reasons as to why there should be a difference here, and it is quite beyond my powers of analysis. I unfortunately don't think I can say what I would like to say.

Mr. BROWN. Was that on advice of counsel?

Mr. RICHBERG. No; I was just advised about something I think I had better not say.

The CHAIRMAN. Have you concluded your statement, Mr. Richberg?

Mr. RICHBERG. I want to say just one more word, if I may. My point is we have here an assumption of authority on the part of an executive official, not only to suspend a law of Congress, but to compel those subject to the law to violate it.

It is respectfully submitted that it is time to end a fight against hobgoblins and to permit the railroad managers and their employees to go forward in their harmonious cooperation, which has so greatly aided in the effective prosecution of the war. This is the high objective of this joint resolution.

And in that regard may I say it is not merely a question as to whether the Congress would like to take an action of this sort. I agree with all those who have hesitations about going to Congress to correct situations of this character, but we are not coming to Congress to ask the Congress to act as a superwage board and pass upon the merits of a wage increase or anything of the sort. We are simply asking the Congress to declare the law, which is to the effect that this wage increase does not violate any requirement of law which has been enacted by this Congress, and Congress is far more competent to pass on that question than is any court, because Congress itself should at least know what is the intention and purpose of its own laws.

Mr. HINSHAW. May I respectfully suggest that if Congress should pass an increase for the nonoperating employees, it would find itself

responsible for breaking the line, and since the President was responsible for making the original declaration in February, that places us in a rather embarrassing position.

Mr. RICHBERG. It doesn't seem to me it places you in an embarrasing position in this regard, Mr. Hinshaw. The Congress is responsible for law making. We have gone a long way in recent years in the delegation of authority to administrative bodies, and I may stand here as a representative, formerly, of administrative authority under a law enacted by Congress, and say frankly, in a confession which I made long ago, that it is a very grave mistake to delegate blanket authority to administrators to proceed as they will.

Mr. HINSHAW. You appreciate that?

Mr. RICHBERG. And I also realize this, as everyone here does; that in the present war emergency there is no method of adequately meeting some of these terrific problems except by delegations of authority that should remain in the hands of Congress, that is, delegations of power under standards so broad that you get very close to the rule of man rather than the rule of law. I realize that is one of the grave necessities of a wartime period, and I happen to be one of those who hope that when this period passes the desirability of such action will cease and be widely recognized, and we will have more law making by the Congress and less by executive officers.

But here you have a situation in which you have delegated powers far beyond those which you would normally delegate to an executive officer, and when you have a case of clear abuse of those powers, it seems to me that it is highly salutary to the country as a whole and to the standing of the Congress of the United Sattes, to check misinterpretation and misapplication and overextension of authority granted by this Congress and to reassert the fundamental law making power of the Congress.

I think that is a very well-worth-while thing.

Now, it is true that there has been widespread misunderstanding, but the passage of this resolution in the Senate by a vote of 74 to 4 woke many people up to the extent that they really began to study the question, and I want to say that it is to the credit of one newspaper, the Washington Post, which had previously been attacking this legislation, that they were broad-minded enough, and fair enough, to put an editorial in their paper, applauding the legislation after it had been passed, and frankly stating that their opinion had been reversed. So I do not think the Congress should feel its action may be continually misunderstood when the time has passed when it is to the interest of certain persons to create misapprehension.

Now, when this matter has been settled under the Railway Labor Act, and when an executive officer, under another act, interferes, it seems to me it would be very salutary for Congress to make it clear that tne Railway Labor Act is still the process for determining these disputes, and that it cannot be set aside by Executive authority, and the last person with power to bring about a settlement under the Railway Labor Act, by the terms of that act itself, is the President himself, and Congress did not authorize him to delegate that power, and never has.

Mr. HINSHAW. You don't contend that Mr. Vinson has superior powers to the President, do you?

Mr. RICHBERG. That's right, but that seems to be the contention that he presents here.

Mr. PRIEST. The President, himself, seemed to think that he had delegated some of his powers to Judge Vinson by appointing this special emergency board.

Mr. RICHBERG. May I say that I cannot speak for the President, or what he thinks, but it seems to me quite evident from the things that occurred that the President was in a very embarrassing situation, in whicn he wanted to uphold the prestige of Judge Vinson in performing highly responsible duties, and he did not want to be in the position of repudiating him, because he is doing a great service in many ways. I am not criticizing Judge Vinson's general capacity.

Mr. WINTER. Then do you think it should be dumped back in our laps to pull him out of an embarrassing situation, and thus put us in his place?

Mr. RICHBERG. I wouldn't like to have it put that way. I don't think it is being dumped back in your lap, because it seems to me we are facing a situation where, with the country involved in a critical situation, and where an act of Congress can resolve that situation, whether somebody else should have done it——.

Mr. WINTER. The President could, too, if he will, could he not?

Mr. RICHBERG. I am quite unable to say whether he could or whether he could not.

Mr. BROWN. Is it your position that it is the duty and responsibility of the Congress to maintain the supremacy and dignity thereof, regardless of what the President may think?

Mr. RICHBERG. I think it is the duty and responsibility of the Congress to maintain the supremacy of the laws which it has enacted. Congress has taken various action from time to time in which it has reversed some Executive action. They took action, which I recall, with regard to the $25,000 salary matter, because the President went ahead to exercise powers Congress evidently did not wish him to exercise. I think it is perfectly proper for the Congress to do that.

Mr. BROWN. Does Judge Vinson contend that all of his power comes from the Stabilization Act, except where the power is delegated through the President's emergency power?

Mr. RICHBERG. I understand from his statement, and it is certainly borne out by the fact, that he acquires his power to act from the Stabilization Act. I understand that he rather indicated that is true. I am quite sure it must be true, because the President simply delegated to him his powers under the Stabilization Act. I say the President could not delegate his powers under the Railway Labor Act, because there are no powers for such delegation. When the Congress gives specific powers to the President, he cannot delegate those powers unless he is specifically authorized by Congress to delegate them. That has been held by the Supreme Court of the United States.

Mr. BROWN. He has delegated powers that have been questioned.

Mr. RICHBERG. That I couldn't tell. That is a pretty broad order.

Mr. WOLVERTON. Mr. Richberg, I would like for you to tell me whether I have a correct conception of this situation. If there had been no action taken by the President, making a reference of this matter to the Economic Stabilization Director, it would have been settled, would it not? In other words, would not the recommendations made by the emergency committee, which has been appointed under authority of the Railway Labor Act, have been effective?

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Mr. RICHBERG. Apparently so.

Mr. WOLVERTON. It seems to me the whole difficulty in this matter arises from that concluding sentence that the President added to his directive [reading]:

> Unless and except to the extent the Economic Stabilization Director shall otherwise direct, the recommendations of the Emergency Board in regard to proposed changes affecting wages and salary payments shall, upon the expiration of 30 days after the report is filed with the President, become effective.

To me, it seems that the fly in the ointment. If the President had not used those words, it would have been nothing more than a directive to the Economic Stabilization Director to consider the report, conveying no powers, no authority, whatsoever; and if the President hadn't issued any order at all, then it would have been a settled matter when the Emergency Board had made its recommendation. I take it that even the President of the United States himself has to be given authority to change the recommendations that are made by an Emergency Board appointed under the Railway Labor Act. Is that right?

Mr. RICHBERG. No one can change the recommendations; that is correct. They stand as the recommendations.

Mr. WOLVERTON. There is nothing he can do about it, is there?

Mr. RICHBERG. There is nothing the Economic Stabilization Director can do about it. They still stand as the recommendations.

Mr. WOLVERTON. Absolutely. Then if the Railway Labor Act under which the Emergency Board was appointed, gave the President no authority in the matter to change the agreement following the recommendations, upon what theory could he delegate power to the Director of Economic Stabilization that he himself did not have?

Mr. RICHBERG. I agree with you entirely. I don't think he had the authority to delegate it and I don't think he did. May I point out I think the mistake here is one often made by persons unfamiliar with the Railway Labor Act. In the mistake of construction by Judge Vinson, when he stated in this order that, unless he otherwise directed, the recommendation should become effective, it was evidently thought by Judge Vinson's judicial mind, or his advisers' legal minds, that the recommendations, when effective, were the same as a decision or an award.

As a matter of fact, the recommendations are effective only to put pressure upon the parties. Therefore, the only effect of the Director's qualifications, which are here suggested, would be that it would relieve the railroads, for example, of any pressure upon the part of the employees to put in effect the recommendations; or it would relieve the employees of any pressure on the part of the railroads to put in effect the recommendations. That is the purpose of the Railway Labor Act, to persuade the parties finally to get together, and these recommendations are supposed to have that power.

Mr. WOLVERTON. After that procedure, an agreement was entered into?

Mr. RICHBERG. Yes.

Mr. WOLVERTON. As I understand it, the agreement was entered into as of August 1.

Mr. RICHBERG. Yes, sir.

Mr. WOLVERTON. Making that practically a contract between the parties?

Mr. RICHBERG. Clearly.

Mr. WOLVERTON. Arrived at as a result of following the course Congress had prescribed in the Railway Labor Act? Is that correct?

Mr. RICHBERG. That is correct.

Mr. WOLVERTON. So that when the President directed or referred that matter to the Director of Economic Stabilization, with that concluding sentence of his directive, he in effect was permitting the Director of Economic Stabilization to set aside a contract that had been entered into between two parties.

Mr. RICHBERG. Yes, sir.

Mr. WOLVERTON. And that brings up the point I urged this morning, that I cannot see how a property right of that kind that those two parties had in that agreement could be set aside without a hearing —or opportunity to be heard—and without the power having been conferred to do it.

Mr. RICHBERG. May I support that with a clear example of what the Congress itself did? In the Emergency Price Control Act, to which the Stabilization Act was an amendment, there is a provision for price fixing. We have no provision for wage fixing until we come to the Smith-Connally Act. There was a provision for price fixing, and the right of a man to fix prices, of his own selection, was modified by the law of the Congress. But the action of the Executive was safeguarded by providing there had to be hearings, there had to be consultation, there had to be opportunity for protest, there had to be a record made, and, after the record was made, there was a provision for an appeal to an Emergency Court of Appeals.

In other words, the Congress of the United States said:

> If the Government is going to interfere with a man's right to fix prices for his goods, we are going to see that his constitutional rights are safeguarded. At least, he is going to have a hearing, and opportunity for judicial review of the action taken.

Now it is suggested, without a scrap of language in a law of Congress, that an executive officer has been given power to fix wages—which, heaven knows, are just as important as prices—the wages of a million men in this case, without a hearing, without any record, without considering any testimony, and with no opportunity for any judicial review. We say the Congress never intended to give such power to anyone, and it is highly important that the Congress should make it clear that no such power was intended to be given. When this Congress passes a wage-fixing law, I believe the Congress will safeguard it—if it ever does pass such a law—with provisions such as have been put into the price-fixing law.

Mr. WOLVERTON. It seems to me that if that last sentence of the directive had not been added by the President, there would have been no jurisdiction conferred upon Judge Vinson to have taken the action he took.

Mr. RICHBERG. I think that is the only pinhook upon which he hangs his jurisdiction.

Mr. WOLVERTON. That is all.

Mr. RICHBERG. But let me point out again, Mr. Congressman——

Mr. WOLVERTON (interposing). But in that the President, I think, very clearly left it up to him. He said:

> Unless and except to the extent that the Economic Stabilization Director shall otherwise direct.

In other words, he was putting the power in the hands of the Director of Economic Stabilization to do the very thing he has done and I can't understand why he would give that authority after he had suggested, as the testimony here shows, that this agreement at 8 cents should be entered into. I can't understand it.

Mr. RICHBERG. Let me point out again that the effect of this must be determined by what it was that the Stabilization Director could make ineffective. If it had been a decision or an award, I will agree with you, there would have been a grant of power, lawful or unlawful, by the President, setting aside an award. But these recommendations are not an award.

Mr. WOLVERTON. I understand.

Mr. RICHBERG. And, therefore, making them ineffective doesn't accomplish anything in the way of giving a man a power to decide what is to be done.

Mr. WOLVERTON. Yes.

Mr. RICHBERG. That is it.

Mr. WOLVERTON. I am glad you spoke of that, because I don't want any misunderstanding as to the thought I expressed. I was not expressing an opinion that agreed with the legal effect.

Mr. RICHBERG. Yes.

Mr. WOLVERTON. You understand.

Mr. RICHBERG. Yes.

Mr. WOLVERTON. But merely with the language that is contained there, it would seem to give Judge Vinson the jurisdiction he claims in taking the action he did.

Mr. RICHBERG. I think that is just it.

Mr. WOLVERTON. I am not willing to admit the President did have power to confer that; but he did confer it, or he attempted to confer it, by that concluding sentence. And if he had left that sentence out, there would not have been all this difficulty—but just what was intended by Congress under the Railway Labor Act, a recommendation by the Emergency Board, which had brought the parties together in the forming of an agreement.

This could have been cured very, very quickly, by the President's making a directive that would recognize the findings of the Emergency Board and let nature take its course—which it did in this case when an agreement was entered into between the parties on that recommendation.

Mr. RICHBERG. Mr. Congressman, you will note that in this particular order, the President permitted proposed changes to go into effect, with the approval of the chairman of the National Railway Labor Panel if he found they conformed to the stabilization program. But if he did not, then there was a provision for an Emergency Board, to be appointed from the Railway Labor Panel. Then the recommendations of the Emergency Board would go to the President.

So that, as I said earlier, up to that point the President had retained his authority and duty, under the Railway Labor Act, to be the final official to endeavor to bring about the settlement of a dispute. Here, unfortunately, Judge Vinson seizes upon this phrase; and apparently it was as great a surprise to the President as to everyone else, because although he had been directed to report to the President, he didn't report to the President. He issued a ukase, an order, saying that these recommendations should not become effective.

In our judgment, that didn't set up any additional authority, that didn't give him authority to say what should become effective; but that simply negatived the value of the recommendations.

Mr. WOLVERTON. It is like the old story of the lawyer telling his client, who is in jail, that he had no constitutional right to be there.

Mr. RICHBERG. That is our situation.

Mr. PRIEST. Mr. Chairman, at the first opportunity, I wanted to ask Mr. Wolverton a question.

Mr. WOLVERTON. Mr. Richberg, I think you said you did not think the President intended for Judge Vinson to have the authority he has utilized here. He din't tell him that, though, did he?

Mr. RICHBERG. The point I was making was that the went ahead without consulting with Judge Vinson—and the Economic Stabilization Director at the time happened to be Judge Byrnes—but he went ahead to exercise his own powers under the Railway Labor Act and brought the employees in and said he thought they ought to accept this responsibility. That was on May 27.

Mr. HALL. And on June 22 his appointee says it wasn't effective?

Mr. RICHBERG. Yes, sir—and issued the so-called order.

Mr. BROWN. You said the President was surprised, did you, at that?

Mr. RICHBERG. That was my understanding.

Mr. BROWN. He didn't so comment on it?

Mr. RICHBERG. I wasn't present at those conferences, but I got the impression that he may have been surprised.

Mr. BROWN. Perhaps he was shocked into speechlessness.

Mr. WOLVERTON. Mr. Richberg, reference is made in this concluding paragraph of the directive to the effect that the order should be filed with the War Labor Board forthwith, with the Economic Stabilization Director, the National War Labor Board, and the Commissioner of Internal Revenue. Did any one of those make any report on the matter, other than the Director of Economic Stabilization?

Mr. RICHBERG. As far as I know, no comment was made at all. Of course, the War Labor Board was given no authority under this; it was denied authority. And I assume the reason for filing it was in order that the War Labor Board, dealing with other controversies, should understand what recommendations were being made here. And then if the War Labor Board thought the Director of Economic Stabilization should make some recommendations to the President, they would tell the Director, and the Director would tell the President. But that didn't give the authority, any more than the President gave the authority.

Mr. WOLVERTON. I am in accord with the views you have expressed. What you are doing here today is really, in effect, making an appeal, where otherwise no appeal exists, from the action of the Director of Economic Stabilization?

Mr. RICHBERG. That is correct.

The CHAIRMAN. Mr. Priest.

Mr. PRIEST. I have a question I wanted to ask Mr. Wolverton, to see if I understood him correctly, for the sake of the record.

I understood you to make a statement, Mr. Wolverton, that Judge Byrnes, acting as the Economic Stabilization Director, had been given authority to set aside a contract between two parties; and I understood it to have been said that the actual agreement between the carriers and the employees, of August 7, had never been referred to him.

Mr. WOLVERTON. I am not certain just what I said about it; but the practical situation is this, as I understand it: After the Emergency Board had made its recommendations, then the parties entered into an agreement under date of August 3, that carried into effect those recommendations; so that when the Director of Economic Stabilization acted, while he may not have acted on that contract, in effect he was doing so, because it is not in effect today because of the action he has taken.

Mr. PRIEST. Mr. Chairman, may I ask one or two more questions?

The CHAIRMAN. Mr. Priest.

Mr. PRIEST. I want to ask Mr. Richberg something, and I don't know whether he cares to comment on this question or not.

The question of the Little Steel formula, Mr. Richberg, has been mentioned from time to time. As I understand it, of course, there was no claim made under that for the nonoperating employees.

Mr. RICHBERG. No, sir.

Mr. PRIEST. But the operating employees received an increaee of 4 cents per hour under the Little Steel formula?

Mr. RICHBERG. That is correct.

Mr. PRIEST. I wanted to ask you this question—and, of course, you may answer it, or not, as you deem best. In your opinion, if this resolution should be passed by the House and signed by the President, would that constitute a real basis for the operating employees then to request similar action?

Mr. RICHBERG. I would like to answer that just as frankly as I can. I think it should be recognized I have no authority to speak for the operating employees.

Mr. PRIEST. I realize that. I just wanted your opinion in the matter.

Mr. RICHBERG. And I don't want to commit them, even by any suggestion in the matter by me. The operating employees have a case with which I am not familiar. They have taken action with which I have had no relationship. I can't tell what their position might be. It is my personal opinion that this matter would not come to the Congress, with respect to the operating employees, and I base that on this:

In the opinion of the Emergency Board appointed for the *Operating Employees' case*, I would like to read the second paragraph in the conclusions—or the first paragraph should be read with it:

> On the basis of the entire record as analyzed on the foregoing pages, it is the opinion of the Emgerency Board that the employees involved in this dispute have made out a strong case for a wage increase, to correct gross inequities, and to aid in the effective prosecution of the war.
>
> In view, however, of the order of the Economic Stabilization Director of June 22, 1943, and his memorandum opinion of June 30, 1943, in the nonoperating case, this Board is compelled to conclude that, there being no substandards of living in the present dispute, the operating employees may be granted such increase only as may be justified under the Little Steel Formula.

Mr. PRIEST. And what was found, under that formula?

Mr. RICHBERG. They were entitled to a 4-cent increase.

Mr. PRIEST. A 4-cent increase?

Mr. RICHBERG. Yes. It seems apparent to me that if it had not been for the opinion of the Economic Stabilization Director of June 22, and June 30 denying the right of correction of gross inequities when the situation was Nation-wide, instead of what they would have been allowed if local—if it were not for that opinion—it seems apparent that this Emergency Board would have reached a correction that would have been much more satisfactory to the operating employees.

Therefore, it seems to me that if the cloud of the Director's order and opinion of June 30, which I think is entirely illegal and also an improper exercise of any authority which might exist under the Stabilization Act—if that cloud is removed from this agreement—it would be my opinion if will not be a difficult matter to get a settlement of the operating employees' case.

I am speaking without the slightest authority or representation, and I want it to be perfectly clear I have not discussed their case with any of the representatives of that group of employees.

Mr. PRIEST. I thank you. I am aware of that. I wanted your opinion, because you are a man whose opinion is worth something.

I have two more very brief questions, Mr. Chairman. May I ask them at this time?

The CHAIRMAN. Yes, sir.

Mr. PRIEST. I want to ask you this question, Mr. Richberg: Let us assume this bill will be reported by this committee, and we will say that it is defeated in the House. Let us just assume that.

Mr. RICHBERG. Yes.

Mr. PRIEST. We will assume the committee reports the bill, and in the House it is defeated. Then what might we expect as the next action in the case?—if that is a fair question.

Mr. RICHBERG. I think the question is perfectly fair, from the standpoint of your asking it. I think my difficulty in answering may be indicated by the fact that it was hard enough in deciding what action ought to be taken for the nonoperating employees in this case when they were faced with this strange and unusual situation. And they certainly sought to exhaust, as has been pointed out, with great patience, every avenue of fair settlement of this controversy. What might be done in the event of the defeat of this resolution, I can't say. I have no program—I may say that—so I can't extemporize.

Mr. O'HARA. Would the gentleman yield?

Mr. PRIEST. Yes.

Mr. O'HARA. Right along that same line, supposing we report this resolution to the floor of the House. What is going to happen if some energetic Member offers an amendment to this resolution to include the operating employees in the same category?

Mr. RICHBERG. There is a grave difference here, may I point out. We are in a situation in which we are not asking for the Congress to sit as a wage board. An agreement has been reached, in accordance with the processes of the Railway Labor Act.

Mr. BULWINKLE. That applies only to the nonoperating employees.

Mr. RICHBERG. Absolutely; and there has been no agreement as to the operating employees. So that I don't see that this resolution could be amended, in its present form, or carried on to include the operating employees' case, without a different kind of a resolution. It is possible to consider some kind of a resolution that might comprehend both situations. But this situation is unique. You know this will settle this controversy. You know this will settle the question of the propriety of the action taken by an executive officer under an act of Congress.

Mr. O'HARA. You don't contend an amendment could not be offered?

Mr. RICHBERG. Oh, no. I say an amendment can be offered. But I say the relief sought in this resolution, and that is proposed, would not apply to the *Operating Employees' case*. Theirs would have to be a different relief.

Mr. HALLECK. Mr. Richberg, I think you have been present at some preceding hearings.

Mr. RICHBERG. Yes.

Mr. HALLECK. And you know of my desire that someone representing the proponents of this proposed legislation, competent to speak about the legal complications and implications, would be present before the committee. I might preface the questions I would like to ask by saying I am glad you did appear, and I have listened intently to what you have had to say. You have made a good statement.

Also I would like to say that I may be a little old-fashioned, but I have a regard for what I call legislative integrity. I don't like it when the administrative branches of the Government usurp legislative authority. I have tried to refrain, on my part, from the usurpation of administrative authority, although on occasion I am frank to confess the usurpation on the other side and some of the rulings that have been handed down have led me to inquire why I was longer bothered about that particular conviction.

The thing I want to know about is just what is the implication. These newspaper boys will write this as a legislative action granting an 8-cent increase to the employees. The O. W. I. releases Mr. Vinson's statement, and they characterize this resolution as a resolution to give congressional approval to an 8-cents-per-hour wage increase for all nonoperating railway employees. On the other hand, as I get it from you, you suggest that it is something else; that it isn't just that.

Of course, the question arises in my mind, in the consideration of that problem, as distinguishing or attempting to distinguish between a purely administrative act and, say, an interpretation or a change of existing law. When I remember that the Price Control Act and the Wage Stabilization Act went to the Banking and Currency Committee, I take it that any act amending that basic act would go to the Banking and Currency Committee and not to this committee.

Mr. RICHBERG. You mean as the act of the Congress and not of an executive officer?

Mr. HALLECK. Yes.

Mr. RICHBERG. That is correct.

Mr. HALLECK. I might comment further. I said I was impressed with what you have had to say. I couldn't help but think that possibly these arguments of yours might better have been addressed to the President of the United States, who has just returned to this country after a very arduous and, we all believe, worth-while trip—rather than to the Congress. But specifically, now, as to whether or not we are usurping administrative authority, or whether we are, in effect, changing a basic law, what, again, is your reason for asserting that the Price Stabilization Act, the Wage Stabilization Act, is not superimposed upon the Railway Labor Act and the wages of men working in the railroad industry?

Mr. RICHBERG. Well, to summarize, I will say that throughout the Price Control Act and the Stabilization Act, there was either definite

exception of railway rates and wages, or an implied exclusion. However, as I said at the outset of my statement, I will agree that the language of the Stabilization Act as to stabilizing wages in general did not have an exception, a specific exception, of railway wages. And I will also go this much farther along the road and say I think it would be a reasonable construction that under the Stabilization Act the President should take appropriate action, within his existing powers, under the Railway Labor Act, to see that the principles of the Stabilization Act were properly taken into consideration in any wage adjustments under the Railway Labor Act. The President has, in the boundaries of the Railway Labor Act, that power, and he clearly exercised it, because in his Order 9299 he set up a machinery by which there would be a report to him of a board which he had the responsibility of appointing, a report to him certifying that any recommendations they made were within the confines of the stabilization program.

Mr. HALLECK. Did he have that authority by reason of the Wage Stabilization Act or by reason of the Railway Labor Act?

Mr. RICHBERG. Well, what I mean is that in exercising the general power under the Wage Stabilization Act he was in the position of being able to see that those same principles were maintained in carrying out the procedures under the Railway Labor Act whereas in other industries he had to create separate machinery. We had the War Labor Board and the Economic Stabilization Director's power to meet the fact that there were no stabilization factors in respect to the other industrial operations, while in the case of the railroads we have had a stabilizing law in operation for 17 years.

Mr. HALLECK. In line with that argument, instead of offering this kind of a bill—and I assume you interpret the legislative intent in the Price Stabilization Act as excluding railroad wages—instead of this special sort of a bill, to legalize and to make effective a contract against which the Economic Stabilization Director has asserted a veto authority, why wasn't there offered for the consideration of the Congress a bill outlining clearly the legislative intent to exclude railway wages from the purview of the Stabilization Act?

Mr. RICHBERG. May I make this suggestion? In the first place, I may be given an undue responsibility in this matter, which I would not like to disavow, as being flattering; but, as a matter of fact, this problem was presented to the Senate and the House, to Senators and to Representatives, not on the basis of a capsule solution but as a problem; and the resolution as it has been prepared and as it was passed by the Senate was very distinctly the work of the Senators themselves, with such consultation with Representatives as they had; and it was not the product of or a specific proposal on may part. I say that because, being in the position of a lawyer here, I might be presumed to have presented a solution which was my peculiar and special solution.

I don't say that to disavow responsibility, because I think this is the sound and the basic method of meeting this problem. But I don't want it understood this is something I have brought forward, because, on the contrary, it is something which the judgment of experienced legislators has arrived at as a solution.

Mr. HALLECK. Of course, I wasn't consulted in its preparation, and I don't challenge the ability, the capacity, or the integrity of those who prepared it. But I am struggling with my conscience and my

convictions and my idea of the kind of a Government we ought to have in this country, to determine what ought to be done about this bill.

Now let me pursue this just a little further. As I understand it, it was said by someone that the contract entered into—and I take it that contract was signed by the proponents of this legislation?

Mr. RICHBERG. And the carriers.

Mr. HALLECK. And the carriers are not proponents or opponents, though they signed the contract. I think it was also said it was signed with a particular, definite stipulation that clearance from the Director of Stabilization or the Office of Stabilization would have to be obtained.

Mr. RICHBERG. Let me explain exactly the facts as to that. It was signed with the statement in it that it was subject to existing requirements of law. In other words, there was no concession upon the part of anyone that the agreement itself was not a lawful agreement. But in view of the controversy that had arisen and the action of the Economic Stabilization Director, there was also a provision to the effect that it should be filed with the President, because, under the circumstances, the agreement having been entered into as the result of recommendations of a President's Emergency Board, and since the President had urged the employers themselves to carry it out, it was the view of the parties that it be filed with the President.

Mr. HARRIS. When did the President urge that that agreement be effective?

Mr. RICHBERG. May 27, 1943. I will read the exact clause here:

SEC. 5. This agreement is subject to any existing requirements of law. Representatives designated by the respective parties shall advise the President of the United States of this agreement, and will, as far as possible, agree upon and furnish to the President any information he may require.

Mr. HALLECK. It is obvious my understanding in that particular respect is erroneous, and I am glad to have it clarified.

Mr. RICHBERG. That is the exact situation.

Mr. HALLECK. In your statement, after you stated your views that there is no power stemming from the Wage Stabilization Act to defeat the accomplishment of the effectiveness of the contract entered into as a result of the procedures under the Railway Labor Act, you then went on to discuss the proposition as to whether or not, under the gross inequities provisions of the Wage Stabilization Act, this resolution could be supported. Is it necessary to go to that end, if your original and first contention is correct?

Mr. RICHBERG. In a sense, no; it isn't necessary. I felt this, that since the Stabilization Act mandatorily required the President to provide for making adjustments necessary to correct gross inequities, and since the Emergency Board had reported that these increases were necessary to correct gross inequities, that it showed the Congress that in validating the agreement they were only declaring the purpose and intent of the Congress in passing this act and providing for the correction of gross inequities and making it perfectly plain, which I think should be made plain, that when the Congress said gross inequities should be corrected, they didn't mean those inequities which an Economic Stabilization Director wanted to correct, and they didn't mean only local gross inequities and not national gross inequities; but they meant exactly what they said, and that was that provision should be made for correcting gross inequities, wherever they

were found, and whether small or large. That is, as I understand it, the meaning of the act of Congress—and that is what is flouted in this case.

Mr. HALLECK. Let us pursue this a little further, in the light of what I have suggested as having to do with what I conceive to be my legislative integrity.

Mr. RICHBERG. Yes.

Mr. HALLECK. If Congress did in truth and in fact attempt to superimpose the Wage Stabilization Act, the Price Control Act, on railway wages, and on the end results achieved under the Railway Labor Act—if that superimposing was intended—then would it or not be a legislative usurpation of administrative authority and responsibility if we in this particular case were to hold that the provision specifying that adjustments could be made to correct gross inequities had been improperly interpreted and applied, and that we would then superimpose our judgment upon that of the administrative agency charged with that responsibility?

Mr. RICHBERG. May I make a comment right there, which I think is quite pertinent to your question? I think there is a grave distinction between the Congress taking over the exercise of executive powers, which arise out of the Constitution, and those which arise out of acts of Congress conferring purely executive powers. I think the Congress should hesitate ever to interfere with necessary executive action. But, when we reach the field of administrative law, the courts have construed that as a peculiar variety of power—not purely executive, but sometimes quasi judicial, sometimes quasi legislative.

In other words, the Congress really delegates a part of its lawmaking power to an administrative officer when it permits that administrative officer to make regulations which have the force of law to carry out some broad command of the Congress. That is an entirely different type of law from the ordinary executive law where there is the clear duty imposed upon an executive officer, for example, to punish crime, to prosecute criminals, to carry out any mandate, as, for example, the distribution of the public lands, or what not. But here you have the exercise of an administrative power which is, as I have said, accepted as quasi judicial or as quasi legislative. It isn't fish, flesh, or fowl.

Mr. HALLECK. The same could be said of every action of the I. C. C. in fixing rates, could it not?

Mr. RICHBERG. In a limited degree. But, for example, if the I. C. C. clearly disregarded a mandate of this Congress as to the standards governing its practices, it would be entirely appropriate for the Congress to pass a declaratory act clarifying those standards, such as the revenue regulations. You have written phrases into the revenue laws which have been misinterpreted by revenue officers, and have written laws to correct that.

Mr. HALLECK. Would that take the form of further amending or clarifying the definition of the gross inequities, as contained in the Wage Stabilization Act, or would it take the form, probably, of ruling that the contention of one party to a controversy before that agency is a correct one, as against that of the other?

Mr. RICHBERG. I think if I were seated in your responsible and not always confortable position——

Mr. HALLECK. It certainly is far from comfortable sometimes.

Mr. RICHBERG. I think I would in this situation feel that the course of administration of the Stabilization Act, just as the course of

administration of some other acts, might be very much improved by some further legislation by the Congress. That is the general problem, requiring a general solution.

Here you face, as I see it, a critical necessity for early action, for speedy action, to deal with a particular situation, rather than that careful and deliberate action of long-term effect which comes in reviewing the general statements or giving general directions to administrative officers. I don't think the fact that you may feel the act itself should be amended, should stand in the way of declaratory action at the present time to avoid a very unfortunate misinterpretation of the act and misapplication of the act, with very serious consequences at a time such as this.

I don't think the fact that there are matters in which the Congress might feel it should take more deliberate action in an ordinary peacetime situation, should operate in this situation to prevent the Congress from acting with speed and certainty in a matter of this kind.

You are doing a great many things in this wartime period which are necessary as an aid to the successful prosecution of the war, but which ordinarily wouldn't be done. You are enacting legislation with great speed in some instances to meet critical situations; and we see no reason, under the circumstances, why that should not be done here.

Mr. HALLECK. Might the same thing, Mr. Richberg, be urged in behalf of the other 70 cases of gross inequities that were before the Board in November? And in asking that, I am not minimizing your first contention, that the Congress never intended and didn't in truth and in fact superimpose the Wage Stabilization Act on railway wages in the procedure under the Railway Labor Act.

Mr. RICHBERG. Yes.

Mr. HALLECK. But if that contention cannot be supported, then we must go to this further contention of yours to support this resolution, that the administrator charged with interpreting and deciding each individual case, in the light of what is a gross inequity, made a mistake; and in that individual case the Congress shall reverse the judgment of the administrator and apply its own decision.

Mr. RICHBERG. There is this complete distinction, if I may point it out: All the other cases involve the question of the exercise of administrative authority, which admittedly resides in the administrator. These cases you speak of, in other industries, involve unquestioned grants of authority; it is just a question of whether it is properly exercised. This case is one where the administrator has no authority and yet presumes to exercise it—and that is quite different.

Mr. HALLECK. That is predicated, then, your latest contention, upon the correctness of your original contention?

Mr. RICHBERG. Pardon me?

Mr. HALLECK. Which is that the Economic Stabilization Director just didn't have any business in this show; that if the agreement was arrived at under the procedure of the Railway Labor Act, then that was the end of it.

Mr. RICHBERG. That is, in part, correct; but there is also this additional factor, and that is that in the cases you speak of, the administrator is accepting the possibility of applying the gross-inequities principle. But in this case he takes a broad line and he says:

> You can't do this without breaking the Little Steel formula, because the only exceptions to the Little Steel formula are one, two, three, four, five.

Who set up these exceptions? Not the Congress, but the administrator himself set up his own exceptions. There is nothing in the law about them. He set up the exception that he will correct only a local gross inequity and not a national gross inequity. That, again, emphasizes my point.

Mr. HALLECK. Maybe we ought to amend the basic law, then, by saying that local gross inequities shall not be the only ones, but also national gross inequities shall be included.

Mr. RICHBERG. There is this point, and that is where this resolution is particular. The railway gross inequities provide the only level for national settlement for an entire industry that I know of. It is a War Labor Board matter to take into consideration some proposition affecting an entire industry; but, as a matter of practical fact, that is not the way the controversy arose, but out of difficulties in the plant between an employer and his employees. This whole machinery of national settlement is the one thing set up by the Congress long before the war powers came into effect, to deal with the railroad industry.

I want to point out the purpose of the resolution again. The resolution as written now provides that this agreement is in accordance with the requirements of the Railway Labor Act, thus making it clear that that act is not suspended.

Mr. HALLECK. That might be interpreted by some as the legislative branch of the Government simply saying that even though the Director of Economic Stabilization says it isn't within the purview of the statute, we say it is.

Mr. RICHBERG. Yes; that is quite correct.

Mr. HALLECK. I had some question in mind at first as to whether or not this resolution, if passed, would attain the objective your people ask. I think your explanation has clarified that in my mind.

Mr. RICHBERG. I wanted also to make clear what I said before. I didn't want to disavow support of this whole resolution as drawn. I wanted to eliminate any possible thought on the part of any of us here that I had any pride of authorship in any particular part of it. I think this is an admirable resolution because it appeals to me as the best and soundest solution of the situation, and a choice legislative enactment, not because I was the author of it.

Mr. HALLECK. Have you and the people you represent despaired of accomplishing the end you seek administratively?

Mr. RICHBERG. I think, Mr. Halleck, if you had sat with these men from May 24, 1943, to November 1943, or, I might have said, if you had been running around with these men and seeing all the efforts they have made during all these months to finally arrive at some administrative solution, you would have despaired of any other method of arriving at a solution.

Mr. HALLECK. I take it that you and the men you represent believe in the objectives of price control and wage stabilization.

Mr. RICHBERG. I don't think there is any question about that.

Mr. HALLECK. Would you care to offer an opinion—and you have studied this matter carefully and are informed about it—as to whether or not there is within the framework of the Railway Labor Act sufficient authority and power for the Government to accomplish the very worthy objectives of price control and wage stabilization, without superimposing the power and authority granted by the Congress to

the Chief Executive and spelt out by the Congress in the Wage Stabilization Act and the Price Control Act?

Mr. RICHBERG. I haven't any question of it, because if you eliminate the one sentence from the Presidential Order 9299, to which Mr. Wolverton referred particularly, on which the Director hangs for his claim of power, you find that the President, in the exercise of his authority and duty under the Railway Labor Act, has provided a means of maintaining assurance that any changes in wage rates under the Railway Labor Act will conform with the stabilization program.

Mr. HALLECK. You believe those orders of his could be supported under the basic Railway Labor Act, as a matter of law?

Mr. RICHBERG. You mean, within his powers?

Mr. HALLECK. Yes.

Mr. RICHBERG. I don't see any reason why they should not be.

Mr. HALLECK. Apart from the power vested in him under the Wage Stabilization Act?

Mr. RICHBERG. Yes; because the President has, under the Railway Labor Act, the appointing power not only of the Mediation Board, which has only conciliatory authority; but he also has the power of naming Emergency Boards for the determintioan of these major controversies. And he has the power through those Emergency Boards and his action thereunder to control any improper and undesirable wage increases that might be contrary to the public interest. Clearly, that was what was given to the President in the act. At the present time the public interest involves wage stabilization; and the President through the exercise of his general powers can certainly see to it that that program is not wrecked on the rocks.

Mr. HALLECK. I have concluded, Mr. Chairman.

Mr. HALL. Along that line, Mr. Richberg, this conference with the President on May 27, 1943, was more or less an informal conference between the employees and the President, trying to arrive at some agreement

Mr. RICHBERG. As I understand it, you might call it informal; but, as I understand it, the President asked the men to meet with him. No; the conference was sought by the men, and at this conference they expressed their disappointment with the recommendations of the Board.

Mr. HALL. Let us assume that after that conference the men met with the operators and, instead of coming in with an agreement providing for an 8-cent-per-hour raise, they had come in with a 25-cent-per-hour raise. Do you think that would have affected their standing?

Mr. RICHBERG. Yes; I think it would.

Mr. HALL. How would that be, in view of your previous statement that this whole matter was determined when the agreement was signed on August 7, 1943?

Mr. RICHBERG. My point was that the agreement determined the entire matter because the agreement was in accordance with recommendations of the Emergency Board. If it had not been in accordance with them, that would have been another proposition entirely. There would have been no need for Presidential approval of the agreement.

Mr. HALL. You don't need the President's approval of an agreement; do you?

Mr. RICHBERG. You don't need Presidential approval in normal times.

Mr. HALL. Well, do you today?

Mr. RICHBERG. I think in view of the Stabilization Act that the President has a responsibility, which he has exercised, to appoint an Emergency Board and require it to certify any increases are going to be in accordance with the law. When that is done, you have provided for conformity with the Stabilization Act. I am not questioning the propriety of that act, sir.

Mr. HALL. Let us assume—going a step further there—that the Emergency Board had recommended an increase of 25 cents an hour. Then that would be clearly out of line and it would break the line, as that expression is used today. Would your standing in court be affected by the fact that such an agreement had been signed?

Mr. RICHBERG. The answer is that we would not be in court, because the railroads would not have signed any agreement the President would have definitely disapproved. There definitely would not have been any agreement. It isn't the theoretical, but it is the practical situation. You don't get an agreement for increased wages out of the railroads, unless the railroads have reason to feel that is something they must do. They don't hand it out as a bonus. There has never been an agreement of that kind that I know of. The railroads are not going to increase wages unless they feel they have to do it, and they don't do it unless they feel they are under compulsion to do it on the basis of public opinion creating the necessity for signing. I am not saying that in criticism of the railroads. That policy is guided by men of sound business judgment who have returns to make and who are subject to regulation by Federal authority. They can pay out only so much, because they get only so much in.

Mr. HALL. Then it is your attitude that the Stabilization Act is in the background here insofar as the powers from the President are concerned? But in the actual operation of the agreement itself, it has no effect whatsoever?

Mr. RICHBERG. As to controlling an agreement directly under the act, no; but as to controlling it through the President, yes.

The CHAIRMAN. Mr. Crosser.

Mr. CROSSER. Mr. Richberg, I want to ask just one or two questions. Is there any doubt that Congress is the policy declaring part of the Government?

Mr. RICHBERG. There is no question about that, as long as we are a democracy.

Mr. CROSSER. That being true, and assuming the policy declared by Congress to be a good one, is there anything mysteriously wrong about Congress' taking whatever additional action may be necessary to effectuate that policy?

Mr. RICHBERG. There is not only nothing wrong about it, Mr. Crosser, but there is ample precedent for it.

Mr. CROSSER. We would be neglecting our duty if we didn't do it; wouldn't we?

Mr. RICHBERG. I think that is one of the tasks, to see that the laws which are attacked are maintained.

The CHAIRMAN. Mr. Harris.

Mr. HARRIS. Mr. Richberg, most of the questions I have in mind are concerned with the legal implications. Did I understand you to say that in your opinion the Stabilization Act of 1942 does not apply in this case?

Mr. RICHBERG. Not directly.

Mr. HARRIS. Not directly?

Mr. RICHBERG. Yes. The reason I say that is because I think it does declare a general policy which it is the duty of the President, within the confines of his general duties, to make effective.

Mr. HARRIS. I realize that. I am talking about the legal phase of it now.

Mr. RICHBERG. That does not apply.

Mr. HARRIS. It does not?

Mr. RICHBERG. No.

Mr. HARRIS. That was my impression from listening to your very fine statement, which I think has been excellent on the legal phase of this question. But in listening to you discuss this matter, I have come to the conclusion that you take the position that one application is based on inequities and inequalities. That applies only to the Stabilization Act; does it not?

Mr. RICHBERG. That is correct.

Mr. HARRIS. If the provisions of the law, as provided by the Stabilization Act, apply in this case, as to inequities and inequalities, it seems to me things get more confusing.

Mr. RICHBERG. You think I am inconsistent?

Mr. HARRIS. It just isn't quite clear.

Mr. RICHBERG. Let me make it clear. I preceded that part of the discussion by saying that even if we assumed authority in the Economic Stabilization Director, he would have to follow, as the deputy of the President, the mandate of the law. Assuming he had no authority, his entire action here is illegal, as I believe it to be.

But if the President, with his duties under the Railway Labor Act, should also carry into effect there, so far as lies within his power, the purposes of the Stabilization Act, then I say he should see to the correction of gross inequities, because that is a mandatory duty upon him.

Mr. HARRIS. As a matter of law, the procedure here, had the President taken the action the Economic Stabilization Director took, it would have come under the purview of the Railway Labor Act?

Mr. RICHBERG. It would have come under the act. That is, if the President had acted, he would have acted under the act.

Mr. HARRIS. Had the President acted, instead of the Stabilization Director, then of course everything would have been as the law required?

Mr. RICHBERG. And there would have been no question here presented, because the President himself urged the acceptance of the recommendations of the Board, which said they were necessary to correct gross inequities.

Mr. HARRIS. I want to ask you a question about that. That was on May 27, 1943, and that was in accordance, probably, with the recommendations of the Emergency Board. As I understood, the Emergency Board reported on May 24, and made a supplemental report on May 29.

Mr. RICHBERG. That is correct.

Mr. HARRIS. What was in that supplemental report that was not in the original one?

Mr. RICHBERG. There was nothing except supplemental material. You see the Board wished to make a report as early as possible; so they put their conclusions in a summary report. The later report,

which was of May 29, which they stated they were going to file, was simply a report adding other material, in which they said:

> In the previous report it was stated a full analysis of the testimony, exhibits, and arguments analyzed in the preparation of the report will be submitted in due course, and the supplemental report we now submit to you contains this analysis.

In other words, this was just their analysis of the evidence, the exhibits, the arguments, and so forth, with the conclusions embodied in their original report, and nothing new brought in but just supporting data.

Mr. HARRIS. This is merely an observation; but I want to reiterate what Mr. Halleck said a moment ago, that if it were possible to reach some formula, in the form of an amendment to the Price Control Act, to accomplish what is desired here, I think it would be so much better, in my opinion. I realize, however, why those you represent feel this procedure should be taken. However, I much prefer the other route, if possible, to do it that way.

Mr. HALL. Mr. Richberg, has anyone ever questioned the fact that the President did recommend—on May 27, was it?

Mr. RICHBERG. Yes.

Mr. HALL. That these men accept the 8-cent increase in wages?

Mr. RICHBERG. As far as I know, it has never been questioned by anyone. It was not questioned by Judge Vinson this morning, or yesterday. It was reported to the special Emergency Board. We gave them full information about that. It was reported to the Senate, with full information discussed there. There has been ample opportunity for weeks and weeks for a question to be raised; but, as a matter of fact, there has never been any question raised as to that.

Mr. HALL. I can understand, then, why the men don't want to go back to the White House, due to the fact that the President or his appointee changed his mind within 30 days.

Mr. JEWELL. Mr. Hall, my name is Jewell. There are five of us here—Mr. Harrison, Mr. Carr, Mr. Milliman, and Mr. Lyon, and myself—who met the President on September 16, when he there repeated, in the presence of the five of us——

Mr. HALL. September 16, 1943?

Mr. JEWELL. Yes, sir; the request he made of Mr. Harrison on May 27, which was that we ought to accept this 8 cents and call it a day.

Mr. HALL. Have you seen the President since that time?

Mr. JEWELL. No, sir; I haven't. Mr. Harrison has. Mr. Harrison saw him on October 12.

STATEMENT OF GEORGE M. HARRISON, GRAND PRESIDENT, BROTHERHOOD OF RAILWAY CLERKS

Mr. HALL. What was the result of that conference on October 12, Mr. Harrison, if you can give it?

Mr. HARRISON. I think, probably, since I have been pulled into this thing—and I have tried to stay out of it, for several good reasons—I might give the committee just a little of the straight facts about what happened.

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Mr. HALL. Let us get these facts in order. First, on May 27, the President said accept the 8-cent raise?

Mr. HARRISON. I will start right there.

Mr. HALL. And on June 24, Judge Vinson turned you down?

Mr. HARRISON. June 22.

Mr. HALL. June 22?

Mr. HARRISON. Yes.

Mr. HALL. And on September 16, 1943, the President again recommended that you accept the 8-cent raise?

Mr. HARRISON. Yes; I will tell you about that.

Mr. HALL. It is a very interesting calendar.

Mr. HARRISON. Here is exactly what happened: Before we served the notice for this increase in pay, there was a good deal of discussion in the daily press about the need for a law to stabilize the economy. We had been meeting, the labor heads in Chicago, in the latter part of August, discussing the need for undertaking a movement to get some more money for the men. So I was designated, in view of that public declaration of an administration program coming out to stabilize the economy, to discuss that situation with the President, so that we wouldn't start something that would immediately be out of order in the event that a stabilizing program was submitted by the administration to Congress.

I met the President on the 27th day of August 1942, and I said, in view of this public declaration about the possibility of the administration making a recommendation to Congress to stabilize the economy:

> I think you ought to know what is in the minds of these railroad men. We have been discussing for some time the advisability of inaugurating a movement to get some more money for the men. We don't want to do anything that will upset the boat, because we realize that the national welfare is paramount to any objective that we may have.

Well, I don't want to be in the attitude of quoting the President, because you all appreciate the impropriety of doing that; but I can sum up that discussion, I think in all good conscience, by making this statement—that after we had discussed the program to be submitted to Congress, recommending stabilization of the economy, I left that conference with the plain and definite impression that our objective and intention of serving a notice to get more money would not be contrary to the program to be recommended to Congress by the President.

I was asked to withhold the inauguration of those demands for more money, until the President addressed the Nation on Labor Day night and presented the program to be recommended to Congress.

Mr. HALL. Who requested you to withhold it?

Mr. HARRISON. The President.

I reported those discussions to my colleagues, the executives of 14 other organizations, on the Saturday following Labor Day, which would have been about the 8th or 9th of September. So we convened our field representatives for consultation, and, as a result of our consultations and discussions, we formulated our national program for an increase of 20 cents an hour, with a minimum of 70 cents for all of the employees represented by these 15 unions.

Notices were served on the 25th day of September 1942. In due course of time, conferences were held with the railroads by the union representatives. Finally a national conference was organized by the union representatives and the managers' representatives, in the month

of December 1942. That failed to bring about an agreement. Mediation was invoked by the workers, and the National Mediation Board tried to compose the dispute, and it failed.

There followed proposals to arbitrate. The Board was unable to obtain agreement. Finally, on the 1st day of March, an Emergency Board, that had been appointed on or about the 20th of February, began public hearings in Chicago, Ill. That Board conducted public hearings for 44 hearing days; took 6,368 pages of testimony; received in excess of 200 exhibits; it cost the unions $100,000 to present the evidence to that Board; and finally the Board, on the 25th day of May '43 filed its report with the President of the United States.

We had rumors, several days before the report was filed, that the Board was going to recommend 8 cents an hour. The union heads conferred in Washington. We discussed the possibility of 8 cents an hour going to come out of the recommendations of the Emergency Board. Well, the union heads were very much disappointed to think, in view of all the evidence submitted to that Board, that we would only get 8 cents an hour, when the evidence showed that railroad wages nationally on the average for this group were 19.4 cents per hour below the Nation-wide average of all other American industrial workers; and we thought 8 cents was insufficient. So, as usual, they asked me if I would call on the President and undertake to discuss the situation with him.

Accordingly, I met the President on May 24. I apprised the President of the possibility of the report being filed on the 25th, and urged that it not be made public until the managers and the workers could consult with him for the purpose of undertaking to find a solution for the dispute, because we didn't want any difficulties, in view of the Nation being at war. The suggestion was accepted. The aides at the White House were informed to keep the report in confidence, and I was put on the calendar to talk the matter over with the President on the 27th day of May.

I met the President on the 27th of May, after I had previously, on the 24th, expressed the disappointment of the men with the 8 cents. I understood the President desired the men to accept the 8 cents and to get this matter behind us, because the national welfare required that it be disposed of now. I reported to my colleagues, then in session here in the city, these developments.

Let me point out here that the President was discharging a statutory duty under the Railway Labor Act, as the final representative of this Government to intervene in a national railroad dispute that might threaten the interruption of interstate commerce. He was performing a statutory duty under the Railway Labor Act, section 10.

Well, we sent word out to our men that we had accepted the recommendations of the Emergency Board, at the request of the President. That became public property. Within 6 or 7 days, it was in every nook and cranny of this Nation, that we had agreed to drop the fight and take the 8 cents recommended by the Emergency Board. That isn't a secret just now coming out. We told the world about that, within 4, 5, or 6 days after May 27. So on the 16th day of June 1942 we made arrangements with the railroads' committee to meet our committee in New York City on the 24th day of June to execute formal contracts to put into effect the recommendations of the Emergency Board—8 cents an hour.

On the morning of the 23d of June, when some of us were preparing to catch our trains to go to New York to meet the railroads on the 24th to execute formal contracts, I received at Cincinnati by long-distance telephone that Mr. Vinson had issued an order setting aside the 8-cent increase. That was the first news we had received. I got it by telephone from Washington, from the Chairman of the National Mediation Board. That morning Mr. Vinson had called him and apprised him of his intention to send him this order setting aside the 8-cent increase.

We had no hearing, by Mr. Vinson, preceding his action. We received no notice, and we had no intimation that the matter was under consideration or that any action would be taken, until the order was issued out of a clear sky the morning of the 23d day of June, 24 hours preceding the time we were to meet the railroads to execute formal contracts. Here is what followed:

I undertook to find out from the White House how come, and I was given to understand that this was a surprise to them as it was to me, and that the matter would be looked into.

Mr. HALL. Would you care to say to whom you spoke?

Mr. HARRISON. I talked to the President and Justice Byrnes was designated to undertake to settle this mater with us. There followed, 2 or 3 days later, conferences here in Washington, in an effort to get Judge Vinson's action cleared up. And the day you folks passed the Connally-Smith bill, over the veto of the President, I undertook to get a conference with Judge Vinson. That was on a Saturday, late in June. He refused to meet me, to discuss his order of June 23. Said he was writing an opinion, and he didn't care to discuss the matter. But by intervention of the President we finally got a conference arranged and met him the next morning—this Labor Committee here, the five of us—and we undertook to explain to him we thought his opinion was very, very unfortunate, that we had this matter settled, the public had accepted what had been done, nobody was bothering about it, nobody was disturbed about it, and he had elected to upset the settlement.

Mr. WOLVERTON. Mr. Harrison, might I interrupt to inquire whether you made known to Mr. Vinson the conversation you had with the President, in which he had urged you to enter into the agreement?

Mr. HARRISON. Oh, yes; we thoroughly informed him in that respect, in great detail.

Mr. HALL. With some force, I would imagine?

Mr. HARRISON. Well, I have known Judge Vinson for a long time, and I have great admiration for him. It was very painful for me to have to disagree on this occasion. But we generally talk pretty plainly to each other when we have a problem under consideration. He was thoroughly appraized by all of us about our feeling in regard to this matter, as well as what had happened up to that moment—as I say, in a very friendly fashion. Well, we didn't get any place with our discussions. We were told an opinion had been prepared, the order had been issued; that the opinion was down and that was that. That is exactly the substance of what we were told.

Mr. PRIEST. What was that date?

Mr. HARRISON. That was about the 26th or 27th day of June, because his opinion was dated the 30th, and it had already been prepared, but had not been typed and released.

Mr. HALL. Have you finished with the story?

Mr. HARRISON. No; but I would be glad to submit to a question.

Mr. HALL. No; go ahead.

Mr. HARRISON. There followed then some further conferences with the President, in order to work it out. There followed some conferences between the War Labor Board and the National Mediation Board to try to harmonize the differences. Finally we conferred with Hon. James Byrnes, at the direction of the President, a half-dozen times to try to find some basis of accommodation. There were some further discussions with the President, on five or six different occasions. Our committee met him on September 16, and we undertook to dispose of the matter at that conference.

Mr. HALL. That is the same date already mentioned? September 16?

Mr. HARRISON. Yes. And you will find reported in that printed circular of October 25, filed by Mr. Jewell, a letter signed by the five labor executives addressed to the President, which I filed with him on October 12, 1943, saying that we had reached a settlement with the President, on September 16, and we believed the national welfare required that it now be carried out. Well, we were unable to get that done, for one reason or another. And I make no improper allegations; that isn't my purpose in being here. And I want to say something about that, if I may be permitted, before I conclude.

On October 12, I tried to get it adjusted; but there were obstacles in the way and we couldn't find a solution for the difficulty.

Finally, on November 4, I talked with the President again, in a last effort to try to find some solution for this, and finally we were convinced that we had no hope of working it out with the executive branch of the Government. Our men were pressing us to do something, as you can imagine, from the 25th day of September 1942 to November in 1943. We were giving them all reports periodically, and giving it to them a week at a time, two weeks at a time, a month at a time, on what happened. We had the cat in the bag, as the fellow would say; but he got out of the bag every time we got him in there.

Mr. HALL. You say you finally became convinced, on November 4?

Mr. HARRISON. Right.

Mr. HALL. That you couldn't get anything from the executive branch?

Mr HARRISON. That is right.

Mr. HALL. Did the President acknowledge to you that he had changed his mind?

Mr. HARRISON. There were some circumstances that could not be accommodated. Many other considerations were involved, I take it; and there didn't seem to be a solution for the problem.

I am here under certain restraints. I don't want to be guilty of proceeding unethically or violating confidences. But there was a situation which developed, if I can explain it in this way, where certain subordinate officers, for one reason or another, had taken certain actions; and at the moment it didn't seem possible to find a basis for accommodating the situation.

Mr. HALL. Aren't those agents you speak of the President's?

Mr. HARRISON. I understand that. I have a large staff that works or me, and sometimes I don't find it possible to reverse them or overrule them, for one reason or another. Now, I am making no apologies for our present situation.

Mr. BROWN. Isn't that, in the Orient, called "face saving"?

Mr. HARRISON. Well, I wouldn't want to label it that way, my dear friend.

Mr. HALLECK. If I might intervene, Mr. Harrison, the Congress that passed this law directed the President to stabilize wages. His would be the authority, and I think his is the authority.

Mr. HARRISON. Well, I think the President could have done the job if he had taken the bull by the horns and proceeded to work on it. But apparently he didn't seem to feel the situation warranted such action, right then.

Now, gentlemen of the committee, I have been in Washington quite a long time. As I recall, Mr. Chairman, I appeared before this committee when this room was first opened. A good many of you, the more senior members, know I always came here with a desire to find some answer to my problems, in a peaceful way. That is our position and our purpose in being here now. We want to find an answer to our problems. Why? Because our men are pressing us for some more money, and the Honorable Mr. Vinson has put up the stop signal and says we can't have it.

Mr. BROWN. And the President supports that position.

Mr. HARRISON. Well, he doesn't overrule it; so we are just on the horns of a dilemma.

Mr. BROWN. You are here because you can't get any action from the White House.

Mr. HARRISON. Because we can't get any solution any other place. Our men are demanding some more money, because they are grossly underpaid in comparison with everybody else. They say "We are going to quit." The industry is being paralyzed. We have an interest in serving the Nation in time of war. We are short 100,000 men now and we can't hire them because our wages are at such low levels. We hired 1,045,000 men in the 12 months ending with June 1943 to maintain a force of 1,450,000. We increased the force a net of 55,000 after hiring 1,045,000. People won't work for the wages now being paid by the railroad industry; so the war effort has to suffer.

Mr. HALL. I was wondering whether some question had not been placed in the way of your program for the increase, when you were asked by the President to withhold the inauguration of it.

Mr. HARRISON. No; there wasn't any question in my mind whatever when we instituted this movement. We were on all fours with the stabilization program.

Mr. HALL. Why did he ask you to withhold it?

Mr. HARRISON. He didn't ask us to withhold it—only until he made his speech on Labor Day night about the stabilization program he was going to present to Congress.

I am an officer of the American Federation of Labor, too, the fifth vice president. President Green appeared in favor of the Stabilization Act when it was in committee over here. We understood it permitted adjustments of injustices that were existing, realizing that our whole economy is not on a basis of equality at the same time, at any minute. There are always certain people lagging, and that was true with labor and we understood gross inequities could be adjusted; that it was an elastic law, with only a partial price control. We have stabilized the best we could do under our economy. The trouble here is this, that when we started the stabilization on the base date of September 15, they pulled the gong and started the race before we were ready, and they have said we can't catch up. That is the trouble—and they have given no handicap to our horse. That is the reason for this problem.

Mr. PRIEST. Mr. Chairman, may I ask Mr. Harrison a question or two?

Mr. Harrison, you made a statement a few minutes ago which I am sure you will be glad to correct, when you said your men were asking for more money—and I think they should have more money—and in that statement you also said "Judge Vinson said we can't give them any," or something to that effect. Of course, he has approved the 4-to-10-cent sliding scale, and has not denied any adjustment.

Mr. HARRISON. Well, that is impractical.

Mr. PRIEST. But your statement was that he said you couldn't have any more money.

Mr. HARRISON. Yes; and I want to modify that. There was a subsequent order of 4 to 10 cents, which is impractical. Why? I'll tell you.

Mr. HARLESS. Were there any hearings to aid Mr. Vinson to determine the 4- to 8-cent sliding scale?

Mr. HARRISON. No; there were no hearings.

Mr. HARLESS. How did he determine that?

Mr. HARRISON. Well, here is the way that was worked. The President, operating under what he claimed were the First War Powers, given by Congress, set up a special board to advise the Economic Administrator on a problem of stabilization, to tell the Economic Administrator how he could allow an increase in wages within the limits of his opinion of June 30. So that board was set up, on October 16, and it held a hearing on October 28, for 1 day.

Mr. HARLESS. Did you present any evidence?

Mr. HARRISON. No; we challenged the legal right of that board to deal with the question, and said we didn't care to retry our wage dispute. We said, "You have no power to do anything."

Mr. HARLESS. That board was appointed by the President?

Mr. HARRISON. Yes; it was appointed by the President. Now if you will read the First War Powers Act, what will you find? The First War Powers Act was nothing more than Congress delegating to the President the power to shift administrative duties from one administrative department of the Government to another administrative department of the Government. But the first war powers law did not permit the President to disturb the Railway Labor Act.

The CHAIRMAN. Do you know of any movement or effort now on foot to secure an administrative adjustment?

Mr. HARRISON. Well, I have heard that rumor. There is only one solution for this problem. And if I may be afforded an opinion, I think it is unfortunate they have bungled this matter. It isn't anything but a little bit of administrative arrogance and a lot of administrative bungling; and the people of this country are pretty sick and tired of the way they are being treated by these bureaucrats in Washington. I say that now, after putting in 6 or 7 months to persuade them they have proceeded in a fashion that is not in the best interests of the country. But they have persisted in their pride and in their desire to have their own way, even though the country's railroads are plunged in a chaotic state.

Our railroad industry is facing a chaotic situation. We are breaking down on account of this situation; our equipment is in bad shape; we are in the winter months; our men are disgruntled and dissatisfied and are threatening to strike. Where are we going to, and what all is involved? A measley $18,000,000 a year in wages standing between a theory and a practical application and settlement of this railroad wage dispute.

Here is another angle of the thing. We spent $100,000 of our money appearing before a commission appointed by the President to hear the facts of this case, and they made a finding based on that record entirely. And then there is a decision by one who never even read a page of the testimony in this case before the decision. Judge Vinson did not have the record in this case, when he made the decision on June 22. All he had was the recommendations of the Emergency Board dated May 24.

The recommendation of a 4- to 10-cent sliding scale can't be applied. Why? Just look at the fallacy of that recommendation:

Jewell and I are brothers, we will say, and live in the town of Railville; he works for railroad A and I work for railroad B. We both live at home and eat at our mother's table. She shops at the grocery store and brings home the food. He gets 43 cents an hour, and I get 46. Under the 10 and 4, in order to wipe out substandard living wages, we both have an increase of 10 cents an hour; so his wage goes to 53 cents and mine goes to 56 cents.

We live in the same town, in the same house, and eat off the same table; and it takes 56 cents to give me a living wage, but only 53 cents to give Jewell a living wage. That is just one of the fallacies of the "10 and 4," and I can go on and give you a good many more of them.

Mr. HALLECK. Under those circumstances, do you do the same kind of work?

Mr. HARRISON. The same kind of work, except he is on railroad A and I am on railroad B.

Mr. HARLESS. Would that same condition prevail with the 8-cent increase, according to the recommendation of the Emergency Board?

Mr. HARRISON. I am going to tell you about that now. Here is the way we cured that problem. The agreement says that all wages of 46 cents an hour, or less, shall be raised to 54 cents, which becomes the minimum. So we cure the substandard living wage, if that can be done with a 54-cent rate, because we say no man will be paid less than that rate. The only way you can balance the adjustment under the rate of 10 and 4, is to take a couple of potatoes off of Jewell's plate and say, "Brother, you are not entitled to the same standard as I am; so you are short two potatoes." That is just how some of these fellows living in a world of theory discard any practical solution of these problems.

Now let us take the interrelated job classifications, where we get on the skidboard and go from 10 to 4 cents. What relationship has a machinist in the State of Maine to a section man in the State of Arizona, as having to do with an interrelated job classification? None whatever. But because they give the section man in Arizona 10 cents, they put in the sliding scale and only give the machinist in the State of Maine 4 cents, because he is in an interrelated job classification—in their theory. But in practice, that is just a lot of nonsense.

If you had an industry at a local point, where you had local production workers, yes, you would have interrelated job classifications. But with a railroad that traverses States, and half the Nation, with all these different occupational groups, there is only an interrelation of jobs within a particular department of the railroad. In the maintenance of way, the section men, there are interrelated job classifications, and in the clerical department and in the mechanical trades; but not clear across the whole country, from Maine to California and from the Great Lakes to the Gulf. That is just impracticable of application. Of course, you can give them this money; but that doesn't have anything to do with a true interrelation of job classifications.

I think what ought to be done, if I might be permitted a suggestion—and I have been in this work for 25 or 30 years, of trying to adjust labor difficulties—I think the best thing to do, and what the Nation's welfare requires, is the validation of that agreement of August 7, and get this controversy behind us. The management has agreed to it, labor has agreed to it, and at one time the Government agreed to 8 cents. But the Government ran out on us, to state the matter plainly.

Mr. HARLESS. I think nearly everyone here agrees the railroad people should have an adjustment in their wages. I have been talking with various members of the committee, and we are very serious about the situation of who should take this thing and do it, and who should assume the responsibility. You say the President has left it up to Mr. Vinson, and Mr. Vinson has now apparently assumed the responsibility.

Assuming this strike of the operating brotherhoods went into effect, of course you know the President wouldn't want the railroads idle. Do you think he would take any action and override Mr. Vinson?

Mr. HARRISON. Well, Mr. Congressman, I don't want to get into the sphere of speculation, about if we had a strike. I think that would aggravate our difficulties rather than contribute to a solution of them. I think the situation is clear. If I thought otherwise, I would not have offered the suggestion, Congressman. I think we have the situation at a point where the executive branch of the Government has found it impossible to make a disposition of the question.

Mr. HARLESS. Do you think the executive branch has found it impossible, or perhaps it prefers that the Congress take the responsibility, on the ground of this "hold the line" order?

Mr. HARRISON. Well, perhaps I had better not explore the minds, although I think I know pretty much about a good many questions involved in this matter, having discussed it in a good many details. And if I might be permitted to say it to the committee, in view of my very intimate knowledge—and I have discussed this matter on the record and off the record, and I think I know what it is about, though maybe I don't.

Mr. BROWN. Did you intimate you had something you wanted to say off the record?

Mr. HARRISON. No; I said I have discussed it on and off the record.

Mr. HARLESS. If there is anything you would like to say off the record——

Mr. HARRISON. No. I say I think right here and now the national interest requires the Congress to clear up this mess and get it out of the way.

Mr. CROSSER. You think it is important that it be done quickly?

Mr. HARRISON. Well, I am afraid, as the old saying goes, you may "fiddle around while Rome burns."

Now, I appeared before the Senate committee—and I hope I won't be misunderstood in what I am saying, because I don't want to lecture anybody, but I want to be intellectually honest with you in giving you my opinion.

Mr. BROWN. The fiddling has been going on for a long time, Mr. Harrison.

Mr. WOLVERTON. The way I look at it, Mr. Chairman, if this resolution is passed, it goes to the President for his approval or veto.

Mr. HARRISON. Yes; I understand that.

Mr. WOLVERTON. He must, therefore, take his position with respect to this matter on that, and if he can't see his way clear to indicate his position without the passing of legislation that would compel him to do so.

Hope springs eternal, even though there is a limit to patience.

Mr. HARRISON. I think the national welfare requires this, and we wouldn't be here, my good friends of this committee, and gentlemen, if we didn't have a profound interest in the national welfare. To tell you we are greatly disturbed about this situation, is putting it pretty mildly.

We could have gone at this in the old, orthodox way of labor unions, and we could have gone on strike and said, "To hell with you. Pay us or we won't work." But we didn't do that. We were concerned with the national welfare and we want to find some solution of this problem for the benefit of the national welfare. That is why we have come here.

Mr. HALL. Mr. Harrison, while it is true, of course, that you don't want to see a strike, neither do you want to see the Government take over the railroads, do you, as was done in the last war?

Mr. HARRISON. No.

Mr. HALL. Which caused, or had something to do with the bringing about of the Railway Labor Act. Isn't that correct?

Mr. HARRISON. I think that is probably true. I think the railway Labor Act grew out of the very unfortunate experiences that preceded the date of the enactment of the Railway Labor Act, namely, strikes and Government control.

Mr. HALL. Let me ask you another question, Mr. Harrison.

Mr. HARRISON. Yes.

Mr. HALL. And I think you speak the same kind of language I do. I think you believe in making a statement and standing by that statement and saying frankly how you feel. Do you feel there is any threat back of this legislation of the strike proposition? I mean, there are things you hear around in the corridors, you know.

Mr. HARRISON. Yes. The situation is this, frankly and candidly: The heads of these unions have no intention of doing anything that will be contrary to the national interest. There is terrific pressure on us fellows. You have no idea how we have fought to hold the situation on as firm a basis as possible, until we could accommodate it.

Mr. HALL. Yes, I do; I am acquainted with the section men and there are a number of other employees in my own town.

Mr. HARRISON. I think the railroad people are mad about what has happened, and they are disgusted with the way they have been treated. They are in no frame of mind to be dealt with in the way they have been dealt with. I think it is the most unfortunate thing that ever happened.

Mr. HARLESS. Mr. Harrison, I think all of us agree you have given one of the finest statements we have had before the committee.

Mr. HARRISON. Thank you, Congressman.

Mr. HARLESS. You have been straightforward and frank, as the Congressman says. We are all greatly concerned with this situation. I have some four or five thousand railroad men in my own State, and I know something about their state of mind. Some of them are not only acquaintances, but very close friends. We are concerned as to how this thing should be done. We would like to have things done in an orderly way. I have talked to several Democratic members here, and we are just as much concerned as the Republican members are.

The CHAIRMAN. Gentlemen, I suppose we should bring this meeting to a close.

Mr. HARRISON. Might I have just a minute to express my appreciation to the members of the committee? I hope you will find a solution to this problem. I think it is unfortunate we had to come here.

Mr. BROWN. It might have been better if you had been the first witness on this, Mr. Harrison.

Mr. HARRISON. I have been in a position in this situation where I have been trying to find a basis to accommodate it. There have been certain confidences, and I couldn't discuss certain things that ought not to be told, and on which I didn't want to be interrogated, because I didn't want to break faith. But I have tried to give you enough information that you will realize what an important situation it is.

Mr. WOLVERTON. I think the forcefulness of your statement comes from the fact that you were able to speak intimately of some of those matters with which other witnesses were not so well acquainted. And I don't want Mr. Jewell to go away without saying to him that his statement was also most illuminating.

(Whereupon, at 5:05 p. m., Friday, December 17, 1943, the hearings were concluded.)

(The full texts of the Executive orders referred to in foregoing hearings are as follows:)

EXECUTIVE ORDER 9172

ESTABLISHING A PANEL FOR THE CREATION OF EMERGENCY BOARDS FOR THE ADJUSTMENT OF RAILWAY LABOR DISPUTES

WHEREAS, Section 5 of the Railway Labor Act, as amended (Ch. 8, title 45, U. S. C.), provides that for a period of thirty days after mediatory efforts of the National Mediation Board have failed to settle a dispute "no change shall be made in the rates of pay, rules, or working conditions or established practices in effect prior to the time the dispute arose"; and

WHEREAS, duly designated and authorized representatives of employees may, during this thirty day period, take a strike vote and fix a date for the strike to become effective; and

WHEREAS, Section 10 of the said Railway Labor Act requires the National Mediation Board to notify the President if an unadjusted dispute threatens, in its judgment, substantially to interrupt interstate commerce to a degree such as to deprive any section of the country of essential transportation service, and provides that upon receipt of such notification the President may, in his discretion, create a board to investigate and report respecting such dispute; and

WHEREAS, the national interest demands that for the effective prosecution of the war there shall be no strike votes taken, or dates fixed for the beginning of strikes, or strikes, lock-outs, or embargoes put into effect, which would affect the transportation industry covered by the Railway Labor Act.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and the Statutes of the United States, and in order to adjust the policies and procedures under the said Act to the requirements of the war emergency, it is hereby ordered as follows:

1. There is hereby created, for the duration of the war and six months thereafter, a National Railway Labor Panel of nine members, hereinafter referred to as the Panel, to be appointed by the President, and to be qualified as to membership thereon in the same manner as provided in Section 10 of the Railway Labor Act for membership on emergency boards. The President shall designate a chairman from the members of the Panel and shall fill vacancies thereon as they may occur. The Chairman of the Panel shall receive such compensation, together with necessary travelling expenses, as the President may prescribe. The members of the Panel shall receive necessary travel expenses and subsistence expenses or per diem allowances in lieu thereof on such days as they are actually engaged in performance of duties pursuant to this Order.

2. Whenever a dispute between a carrier or carriers and its or their employees concerning changes in rates of pay, rules, or working conditions, or whenever any other dispute not referable to the National Railroad Adjustment Board, is not adjusted or settled under the provisions of Sections 5, 6, 7, 8, and 9 of the Railway Labor Act, the duly designated and authorized representatives of employees involved in such dispute may, prior to notice by the National Mediation Board to the President of a threatened interruption to commerce, notify the Chairman of the Panel of the failure of the parties to adjust the dispute and of their desire to avoid the taking of a strike vote and the setting of a strike date. If, in the judgment of the Chairman of the Panel, the dispute is such that if unadjusted, even in the absence of a strike vote, it may interfere with the prosecution of the war, he may thereupon select three members of the Panel to serve as an emergency board to investigate such dispute and to report thereon to the President. Subject to the provisions of Section 10, such board shall have exclusive and final jurisdiction of the dispute and shall make every reasonable effort to settle such dispute.

3. The National Mediation Board shall furnish the Panel stenographic, investigative, and such other facilities as may be necessary; and within the limits of the funds provided, and upon the certification of the Chairman of the Panel, shall make such other disbursements as are necessary to effectuate this Order.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
May 22, 1942.

[F. R. Doc. 42-4816; Filed, May 25, 1942; 2:37 p. m.]

EXECUTIVE ORDER 9250

PROVIDING FOR THE STABILIZING OF THE NATIONAL ECONOMY

By virtue of the authority vested in me by the Constitution and the Statutes, and particularly by the Act of October 2, 1942, entitled "An Act to Amend the Emergency Price Control Act of 1942, to Aid in Preventing Inflation, and for Other Purposes", as President of the United States and Commander in Chief of the Army and Navy, and in order to control so far as possible the inflationary tendencies and the vast dislocations attendant thereon which threaten our military effort and our domestic economic structure, and for the more effective prosecution of the war, it is hereby ordered as follows:

TITLE I—ESTABLISHMENT OF AN OFFICE OF ECONOMIC STABILIZATION

1. There is established in the Office for Emergency Management of the Executive Office of the President an Office of Economic Stabilization at the head of which shall be an Economic Stabilization Director (hereinafter referred to as the Director).

2. There is established in the Office of Economic Stabilization an Economic Stabilization Board with which the Director shall advise and consult. The Board shall consist of the Secretary of the Treasury, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Chairman of the Board of Governors of the Federal Reserve System, the Director of the Bureau of the Budget, the Price Administrator, the Chairman of the National War Labor Board, and two representatives each of labor, management, and farmers to be appointed by the President. The Director may invite for consultation the head of any other department or agency. The Director shall serve as Chairman of the Board.

3. The Director, with the approval of the President, shall formulate and develop a comprehensive national economic policy relating to the control of civilian purchasing power, prices, rents, wages, salaries, profits, rationing, subsidies, and all related matters—all for the purpose of preventing avoidable increases in the cost of living, cooperating in minimizing the unnecessary migration of labor from one business, industry, or region to another, and facilitating the prosecution of the war. To give effect to this comprehensive national economic policy the Director shall have power to issue directives on policy to the Federal departments and agencies concerned.

4. The guiding policy of the Director and of all departments and agencies of the Government shall be to stabilize the cost of living in accordance with the Act of October 2, 1942; and it shall be the duty and responsibility of the Director and of all departments and agencies of the Government to cooperate in the execution of such administrative programs and in the development of such legislative programs as may be necessary to that end. The administration of activities related to the national economic policy shall remain with the departments and agencies now responsible for such activities, but such administration shall conform to the directives on policy issued by the Director.

TITLE II—WAGE AND SALARY STABILIZATION POLICY

1. No increases in wage rates, granted as a result of voluntary agreement, collective bargaining, conciliation, arbitration, or otherwise, and no decreases in wage rates, shall be authorized unless notice of such increases or decreases shall have been filed with the National War Labor Board. and unless the National War Labor Board has approved such increases or decreases.

2. The National War Labor Board shall not approve any increase in the wage rates prevailing on September 15, 1942, unless such increase is necessary to correct maladjustments or inequalities, to eliminate substandards of living, to correct gross inequities, or to aid in the effective prosecution of the war.

Provided, however, that where the National War Labor Board or the Price Administrator shall have reason to believe that a proposed wage increase will require a change in the price ceiling of the commodity or service involved, such proposed increase, if approved by the National War Labor Board, shall become effective only if also approved by the Director.

3. The National War Labor Board shall not approve a decrease in the wages for any particular work below the highest wages paid therefor between January 1, 1942 and September 15, 1942, unless to correct gross inequities and to aid in the effective prosecution of the war.

4. The National War Labor Board shall, by general regulation, make such exemptions from the provisions of this title in the case of small total wage increases or decreases as it deems necessary for the effective administration of this Order.

5. No increases in salaries now in excess of $5,000 per year (except in instances in which an individual has been assigned to more difficult or responsible work), shall be granted until otherwise determined by the Director.

6. No decrease shall be made in the salary for any particular work below the highest salary paid therefore between January 1, 1942 and September 15, 1942 unless to correct gross inequities and to aid in the effective prosecution of the war.

7. In order to correct gross inequities and to provide for greater equality in contributing to the war effort, the Director is authorized to take the necessary action, and to issue the appropriate regulations, so that, insofar as practicable, no salary shall be authorized under Title III, Section 4 to the extent that it exceeds $25,000 after the payment of taxes allocable to the sum in excess of $25,000: Provided, however, that such regulations shall make due allowance for the payment of life insurance premiums on policies heretofore issued, and required payments on fixed obligations heretofore incurred, and shall make provision to prevent undue hardship.

8. The policy of the Federal Government, as established in Executive Order No. 9017 of January 12, 1942, to encourage free collective bargaining between employers and employees is reaffirmed and continued.

9. Insofar as the provisions of Clause (1) of section 302 (c) of the Emergency Price Control Act of 1942 are inconsistent with this Order, they are hereby suspended.

TITLE III—ADMINISTRATION OF WAGE AND SALARY POLICY

1. Except as modified by this Order, the National War Labor Board shall continue to perform the powers, functions, and duties conferred upon it by Executive Order No. 9017,[1] and the functions of said Board are hereby extended to cover all industries and all employees. The National War Labor Board shall continue to follow the procedures specified in said Executive Order.

2. The National War Labor Board shall constitute the agency of the Federal Government authorized to carry out the wage policies stated in this Order, or the directives on policy issued by the Director under this Order. The National War Labor Board is further authorized to issue such rules and regulations as may be necessary for the speedy determination of the propriety of any wage increases or decreases in accordance with this Order, and to avail itself of the services and facilities of such State and Federal departments and agencies as, in the discretion of the National War Labor Board, may be of assistance to the Board.

3. No provision with respect to wages contained in any labor agreement between employers and employees (including the Shipbuilding Stabilization Agreements as amended on May 16, 1942, and the Wage Stabilization Agreement of the Building Construction Industry arrived at May 22, 1942) which is inconsistent with the policy herein enunciated or hereafter formulated by the Director shall be enforced except with the approval of the National War Labor Board within the provisions of this Order. The National War Labor Board shall permit the Shipbuilding Stabilization Committee and the Wage Adjustment Board for the Building Construction Industry, both of which are provided for in the foregoing agreements, to continue to perform their functions therein set forth, except insofar as any of them is inconsistent with the terms of this Order.

4. In order to effectuate the purposes and provisions of this Order and the Act of October 2, 1942, any wage or salary payment made in contravention thereof shall be disregarded by the Executive Departments and other governmental agencies in determining the costs or expenses of any employer for the purpose of any law or regulation, including the Emergency Price Control Act of 1942 or any maximum price regulation thereof, or for the purpose of calculating deductions under the Revenue Laws of the United States or for the purpose of determining costs or expenses under any contract made by or on behalf of the Government of the United States.

TITLE IV—PRICES OF AGRICULTURAL COMMODITIES

1. The prices of agricultural commodities and of commodities manufactured or processed in whole or substantial part from any agricultural commodity shall be stabilized, so far as practicable, on the basis of levels which existed on September 15, 1942 and in compliance with the Act of October 2, 1942.

2. In establishing, maintaining or adjusting maximum prices for agricultural commodities or for commodities processed or manufactured in whole or in substantial part from any agricultural commodity, appropriate deductions shall be made from parity price or comparable price for payments made under the Soil Conservation and Domestic Allotment Act, as amended, parity payments made under the Agricultural Adjustment Act of 1938, as amended, and governmental subsidies.

3. Subject to the directives on policy of the Director, the price of agricultural commodities shall be established or maintained or adjusted jointly by the Secretary of Agriculture and the Price Administrator; and any disagreement between them shall be resolved by the Director. The price of any commodity manufactured or processed in whole or in substantial part from an agricultural commodity shall be established or maintained or adjusted by the Price Administrator in the same administrative manner provided for under the Emergency Price Control Act of 1942.

4. The provisions of sections 3 (a) and 3 (c) of the Emergency Price Control Act of 1942 are hereby suspended to the extent that such provisions are inconsistent with any or all prices established under this Order for agricultural commodities, or commodities manufactured or processed in whole or in substantial part from an agricultural commodity.

[1] 7 F. R. 237.

TITLE V—PROFITS AND SUBSIDIES

1. The Price Administrator in fixing, reducing, or increasing prices, shall determine price ceilings in such a manner that profits are prevented which in his judgment are unreasonable or exorbitant.

2. The Director may direct any Federal department or agency including, but not limited to, the Department of Agriculture (including the Commodity Credit Corporation and the Surplus Marketing Administration), the Department of Commerce, the Reconstruction Finance Corporation, and other corporations organized pursuant to Section 5d of the Reconstruction Finance Corporation Act, as amended, to use its authority to subsidize and to purchase for resale, if such measures are necessary to insure the maximum necessary production and distribution of any commodity, or to maintain ceiling prices, or to prevent a price rise inconsistent with the purposes of this Order.

TITLE VI—GENERAL PROVISIONS

1. Nothing in this Order shall be construed as affecting the present operation of the Fair Labor Standards Act, the National Labor Relations Act, the Walsh-Healey Act, the Davis-Bacon Act, or the adjustment procedure of the Railway Labor Act.

2. Salaries and wages under this Order shall include all forms of direct or indirect remuneration to an employee or officer for work or personal services performed for an employer or corporation, including but not limited to, bonuses, additional compensation, gifts, commissions, fees, and any other remuneration in any form or medium whatsoever, (excluding insurance and pension benefits in a reasonable amount as determined by the Director); but for the purpose of determining wages or salaries for any period prior to September 16, 1942, such additional compensation shall be taken into account only in cases where it has been customarily paid by employers to their employees. "Salaries" as used in this Order means remuneration for personal services regularly paid on a weekly, monthly or annual basis.

3. The Director shall, so far as possible, utilize the information, data, and staff services of other Federal departments and agencies which have activities or functions related to national economic policy. All such Federal departments and agencies shall supply available information, data, and services required by the Director in discharging his responsibilities.

4. The Director shall be the agency to receive notice of any increase in the rates or charges of common carriers or other public utilities as provided in the aforesaid Act of October 2, 1942.

5. The Director may perform the functions and duties, and exercise the powers, authority, and discretion conferred upon him by this Order through such officials or agencies, and in such manner, as he may determine. The decision of the Director as to such delegation and the manner of exercise thereof shall be final.

6. The Director, if he deems it necessary, may direct that any policy formulated under this Order shall be enforced by any other department or agency under any other power or authority which may be provided by any of the laws of the United States.

7. The Director, who shall be appointed by the President, shall receive such compensation as the President shall provide, and within the limits of funds which may be made available, may employ necessary personnel and make provision for supplies, facilities and services necessary to discharge his responsibilities.

THE WHITE HOUSE, *October 3, 1942.* FRANKLIN D. ROOSEVELT.

[F. R. Doc. 42-9889; Filed October 3, 1942; 1:04 p. m.]

EXECUTIVE ORDER 9299

PRESCRIBING REGULATIONS AND PROCEDURE WITH RESPECT TO WAGE AND SALARY ADJUSTMENTS FOR EMPLOYEES SUBJECT TO THE RAILWAY LABOR ACT

By virtue of the authority vested in me by the Constitution and statutes of the United States, and more particularly by the act of October 2, 1942 (Public Law 729, 77th Congress), it is hereby ordered:

1. No increases in the wage rates or salary of any employee subject to the provisions of the Railway Labor Act, whether granted as a result of voluntary agreement, collective bargaining, conciliation, arbitration, or otherwise, and no decreases in such wage rates or salary, shall be made except in accordance with the provisions of this order; provided, however, that nothing contained in this order or Executive Order No. 9250[1] shall be construed as affecting the procedure or limiting the jurisdiction of either the National Mediation Board, as defined in the Railway Labor Act, or the National Railway Labor Panel, as defined in Executive Order No. 9172,[2] except as herein specifically set forth.

2. No carrier shall make any change in wage rates, except such changes as by general order of the National War Labor Board, or by regulations of the Commissioner of Internal Revenue, are permitted to be made without the specific approval of the Board or the Commissioner, as the case may be, unless notice of such proposed change shall have been filed with the Chairman of the National Railway Labor Panel, created by Executive Order No. 9172, and shall have been permitted to become effective as hereinafter provided.

Notwithstanding §4001.2 of the Regulations of the Economic Stabilization Director,[3] for the purpose of determining what wage and salary adjustments may be made without any specific approval, the general orders of the National War Labor Board shall be applicable to all employees subject to the Railway Labor Act, except those receiving salaries at the rate of $5,000 or more per annum in regard to whom the regulations of the Commissioner of Internal Revenue shall apply. But any adjustment of salary under $5,000 heretofore approved by the Commissioner shall not be affected by this order.

3. If the Chairman of the National Railway Labor Panel has reason to believe that the proposed change, in wage rates or salary, may not conform to the standards prescribed in Executive Order No. 9250, or to the general stabilization program made effective thereunder, or to the directives on policy issued by the Economic Stabilization Director thereunder and the proposed change is not modified to conform to such standards, program, and directives, he shall designate three members of the Panel as an Emergency Board to investigate the proposed change and to report to the President. Otherwise the Chairman of the Panel may permit the proposed change to become effective.

4. Emergency Boards, whether designated pursuant to the Railway Labor Act, Executive Order No. 9172, or section 3 of this order, in reporting to the President shall certify that their recommendations in regard to any proposed change affecting wage and salary payments conform with the standards prescribed in Executive Order No. 9250, the general stabilization program made effective thereunder, and with the directives on policy issued by the Economic Stabilization Director thereunder.

5. Copies of the report with recommendations made to the President by any Emergency Board under section 4 of this order shall be filed by the Board forthwith with the Economic Stabilization Director, the National War Labor Board and the Commissioner of Internal Revenue. The Economic Stabilization Director may on behalf of himself or other departments and agencies concerned, report to the President the effect of the recommendations on the general stabilization program. Unless and except to the extent that the Economic Stabilization Director shall otherwise direct, the recommendations of the Emergency Board in regard to proposed changes affecting wages and salary payments shall, upon the expiration of thirty days after the report is filed with the President, become effective.

6. The National War Labor Board and the Commissioner of Internal Revenue shall either rule on any application for approval of wage and salary adjustments now before the Board and the Commissioner or transfer it to the Chairman of the National Railway Labor Panel. The Board and the Commissioner shall not rule on any application hereafter made.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
February 4, 1943.

[1] 7 F. R. 7871.
[2] 7 F. R. 3913.
[3] 7 F. R. 8748.

[F. R. Doc. 43-1924; Filed, February 5, 1943; 11:10 a.m.]

EXECUTIVE ORDER 9328

[STABILIZATION OF WAGES, PRICES, AND SALARIES]

By virtue of the authority vested in me by the Constitution and the statutes, and particularly by the First War Powers Act, 1941, and the Act of October 2, 1942, entitled "An Act to Amend the Emergency Price Control Act of 1942, to Aid in Preventing Inflation. and for Other Purposes," as President of the United States and Commander in Chief of the Army and Navy, and in order to safeguard the stabilization of prices, wages and salaries, affecting the cost of living on the basis of levels existing on September 15, 1942, as authorized and directed by said Act of Congress of October 2, 1942, and Executive Order No. 9250 of October 3, 1942,[1] and to prevent increases in wages, salaries, prices and profits, which, however justifiable if viewed apart from their effect upon the economy, tend to undermine the basis of stabilization, and to provide such regulations with respect to the control of price, wage and salary increases as are necessary to maintain stabilization, it is hereby ordered as follows:

1. In the case of agricultural commodities the Price Administrator and the Administrator of Food Production and Distribution (hereinafter referred to as the Food Administrator) are directed, and in the case of other commodities the Price Administrator is directed to take immediate steps to place ceiling prices on all commodities affecting the cost of living. Each of them is directed to authorize no further increases in ceiling prices except to the minimum extent required by law. Each of them is further directed immediately to use all discretionary powers vested in them by law to prevent further price increases direct or indirect, to prevent profiteering and to reduce prices which are excessively high, unfair or inequitable. Nothing herein, however, shall be construed to prevent the Food Administrator and the Price Administrator, subject to the general policy directives of the Economic Stabilization Director, from making such readjustments in price relationships appropriate for various commodities, or classes, qualities or grades thereof or for seasonal variations or for various marketing areas, or from authorizing such support prices, subsidies or other inducements as may be authorized by law and deemed necessary to maintain or increase production, provided that such action does not increase the cost of living. The power, functions and duties conferred on the Secretary of Agriculture under section 3 of the Emergency Price Control Act of 1942 (Public Law 421, 77th Cong.) and under section 3 of the Act of October 2, 1942 (Public Law 729, 77th Cong.) are hereby transferred to, and shall be exercised by the Food Administrator.

2. The National War Labor Board, the Commissioner of Internal Revenue and other agencies exercising authority conferred by Executive Order No. 9250 or Executive Order 9299[2] and the regulations issued pursuant thereto over wage or salary increases are directed to authorize no further increase in wages or salaries except such as are clearly necessary to correct substandards of living, provided that nothing herein shall be construed to prevent such agencies from making such wage or salary readjustments as may be deemed appropriate and may not have heretofore been made to compensate, in accordance with the Little Steel Formula as heretofore defined by the National War Labor Board, for the rise in the cost of living between January 1, 1941 and May 1, 1942. Nor shall anything herein be construed to prevent such agencies, subject to the general policies and directives of the Economic Stabilization Director, from authorizing reasonable adjustments of wages and salaries in case of promotions, reclassifications, merit increases, incentive wages or the like, provided that such adjustments do not increase the level of production costs appreciably or furnish the basis either to increase prices or to resist otherwise justifiable reductions in prices.

3. The Chairman of the War Manpower Commission is authorized to forbid the employment by any employer of any new employee or the acceptance of employment by a new employee except as authorized in accordance with regulations which may be issued by the Chairman of the War Manpower Commission, with the approval of the Economic Stabilization Director, for the purpose of preventing such employment at a wage or salary higher than that received by such new employee in his last employment unless the change of employment would aid in the effective prosecution of the war.

[1] 7 F. R. 7871.
[2] 8 F. R. 1669.

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4. The attention of all agencies of the Federal Government, and of all State and municipal authorities, concerned with the rates of common carriers or other public utilities, is directed to the stabilization program of which this order is a part so that rate increases will be disapproved and rate reductions effected, consistently with the Act of October 2, 1942, and other applicable federal, state or municipal law, in order to keep down the cost of living and effectuate the purposes of the stabilization program.

5. To provide for the consistent administration of this order and Executive Order No. 9250, and other orders and regulations of similar import and for the effectuation of the purposes of the Act of October 2, 1942, the Economic Stabilization Director is authorized to exercise all powers and duties conferred upon the President by that Act, and the Economic Stabilization Director is authorized and directed to take such action and to issue such directives under the authority of that Act as he deems necessary to stabilize the national economy, to maintain and increase production and to aid in the effective prosecution of the war. Except insofar as they are inconsistent with this order or except insofar as the Director shall otherwise direct, powers and duties conferred upon the President by the said Act and heretofore devolved upon agencies or persons other than the Director shall continue to be exercised and performed by such agencies and persons.

6. Except insofar as they are inconsistent with this order, Executive Order 9250 and the regulations issued pursuant thereto shall remain in full force and effect.

FRANKLIN D. ROOSEVELT.

The WHITE HOUSE,
April 8, 1943.

[F. R. Doc. 43-5606; Filed, April 9, 1943; 11:34 a. m.

EXECUTIVE ORDER 9413

ESTABLISHING A SPECIAL EMERGENCY BOARD TO REPORT ON THE CLAIMS FOR WAGE ADJUSTMENTS OF NON-OPERATING RAILWAY EMPLOYEES

WHEREAS a Special Emergency Board was appointed by me on October 16, 1943, to consider claims for wage adjustments of non-operating railway employees, and

WHEREAS the Economic Stabilization Director on November 4, 1943, entered an order authorizing the wage adjustments recommended by said Special Emergency Board to become effective on November 19, 1943, and

WHEREAS the non-operating railways employees' organizations in the first instance refused to accept the recommendations of said Special Emergency Board and invoked the service of the National Mediation Board to enjoin the carriers from putting the recommendations into effect, and

WHEREAS the non-operating railway employees' organizations on December 27, 1943, announced that they had abandoned their objections to the recommendations of said Special Emergency Board, but asserted additional claims with respect to payments for or in lieu of overtime after forty hours per week, particularly in view of the wage adjustments recently granted to railway operating employees on account of similar and other claims; and

WHEREAS the carriers and the non-operating railway employees have not been able to reach an agreement with respect to such additional claims of the non-operating railway employees;

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and Statutes, and particularly by the First War Powers Act, 1941, the Railway Labor Act and the Stabilization Act of October 2, 1942, as President of the United States and Commander-in-Chief of the Army and Navy, it is hereby ordered as follows:

1. There is hereby established a Special Emergency Board of three members to be selected by me from the National Railway Labor Panel to consider the unsettled claims for wage adjustments of the non-operating railway employees, and to recommend to me such wage adjustments, if any, as should be made within the limitations of the Act of October 2, 1942, and the Executive Orders thereunder.

2. The parties before the Special Emergency Board shall be the same as those included within the recommendations of the Emergency Board appointed by me on October 16, 1943.

3. The Special Emergency Board shall report to me as soon as practicable, but not later than 30 days after the date of this Order. Copies of the report shall be filed at the same time with the Economic Stabilization Director, the National War Labor Board and the Commissioner of Internal Revenue.

The recommendations of the Special Emergecny Board in regard to proposed changes affecting wage and salary payments shall become effective fifteen days after the date of the filing of its report with me, unless and except to the extent the Economic Stabilization Director otherwise directs.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *January 4, 1944.*

[F. R. Doc. 44-258; Filed, January 5, 1944; 3:04 p. m.]

EXECUTIVE ORDER 9388

ESTABLISHING A SPECIAL EMERGENCY BOARD TO REPORT ON THE CLAIMS FOR WAGE ADJUSTMENTS OF NONOPERATING RAILWAY EMPLOYEES

WHEREAS, the Director of Economic Stabilization found the report of May 24 and May 29, of the Emergency Board set up to consider the wage adjustment claims of the non-operating railway employees to be inconsistent with the stabilization program established under the Act of October 2, 1942, and the Executive Orders issued thereunder, and directed that the claims be reconsidered in light of the opinion filed by him on June 30, 1942, and

WHEREAS, the Emergency Board originally constituted to consider the claims of the non-operating railway employees has been dissolved and it is necessary to provide further machinery for adjusting these claims in accordance with the Act of October 2, 1942, and the stabilization program established thereunder.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and the Statutes, and particularly by the First War Powers Act, 1941, as President of the United States and Commander-in-Chief of the Army and Navy, it is hereby ordered as follows:

(1) There is hereby established a Special Emergency Board of three members to be selected by me from the National Railway Labor Panel to reconsider the claims for wage adjustments of the non-operating railway employees, and to recommend to me such wage adjustments which should be made, within the limitations of the Act of October 2, 1942, and the Executive Orders thereunder, and in conformity with the opinion of the Economic Stabilization Director of June 30, 1943. In making its recommendations to me, the Board may give such consideration as it deems appropriate to the report filed with me on September 25, 1943, by the Emergency Board appointed to consider the claims for wage adjustments of the operating railway employees.

(2) The parties before the Special Emergency Board shall be the same as those included within the recommendation of the Emergency Board which reported to me on May 24 and May 29 in this dispute.

(3) The Special Emergency Board shall report to me on or before November 15, 1943. Copies of the report shall be filed at the same time with the Economic Stabilization Director, the National War Labor Board and the Commissioner of Internal Revenue.

The recommendations of the Special Emergency Board in regard to proposed changes affecting wage and salary payments shall become effective fifteen days after the date of the filing of its report with me, unless and except to the extent the Economic Stabilization Director otherwise directs.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *October 16, 1943.*

[F. R. Doc. 43-16860; Filed, October 16, 1943; 2:46 p. m.]

SUBCOMMITTEE APPOINTED

DECEMBER 20, 1943.

The Committee on Interstate and Foreign Commerce at its meeting this morning deferred action on Senate Joint Resolution 91, the Truman-Crosser Act, until immediately after the convening of the second session of the Seventy-eighth Congress on January 10, 1944.

The committee further directed the chairman to appoint a subcommittee of five members whose duty it shall be to prepare and present to the full committee an amendment to Senate Joint Resolution 91 which will have the effect of broadening the scope and provisions of the measure so as to exempt the Railway Labor Act and all amendments thereto from the provisions of the stabilization acts. Such amendment will entirely exempt the present controversy and all other agreements and settlements made under the Railway Labor Act from the provisions of any other law.

The chairman appointed as members of this subcommittee the following members of the full committee: Mr. Crosser, Ohio, chairman; Mr. Priest, Tennessee; Mr. Harless, Arizona; Mr. Wolverton, New Jersey; Mr. Halleck, Indiana.

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